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CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 12

Introduced by Assembly Members Beall and Bass

(Principal coauthor: Senator Liu)

(Coauthors: Assembly Members Adams, Ammiano, Anderson, Tom Berryhill, Block, Blumenfield, Brownley, Carter, Chesbro, Conway, Coto, Davis, De La Torre, De Leon, Emmerson, Eng, Evans, Fletcher, Galgiani, Gilmore, Hall, Hernandez, Huber, Huffman, Jones, Krekorian, Logue, Ma, Monning, Nestande, Niello, John A. Perez, Portantino, Salas, Saldana, Skinner, Smyth, Solorio, Audra Strickland, Swanson, Torlakson, Torrico, Villines, and Yamada)

(Coauthors: Senators Cedillo, *Corbett*, DeSaulnier, Ducheny, Hancock, Leno, Pavley, Runner, Steinberg, ~~and Wiggins~~ *Strickland, Wiggins, and Yee*)

December 1, 2008

An act to amend Section 17552 of the Family Code, to amend Sections 1501.1 and 1505 of, and to add Section 1502.7 to, the Health and Safety Code, and to amend Sections 241.1, 293, 295, 297, 300,

303, 317, 358.1, 360, 361.45, 361.5, 366, 366.21, 366.22, 366.25, 366.3, 366.4, 388, 727.2, 785, 10609.4, 11008.15, 11155.5, 11253, 11363, 11376, 11400, 11401, ~~11401.05~~, 11401.1, 11401.4, 11401.5, 11402, 11403.2, 11405, 11450, 11450.16, 11454.5, 11461, 11464, 11465, 11466.23, 11466.24, 16120, 16123, 16501, 16501.1, 16501.25, 16503, 16507.3, 16507.4, 16507.6, and 16508 of, to amend, repeal, and add Sections 391 and 11403 of, to add Sections 300.3, 366.31, 11217, and 11401.05 to, to add Article 4.7 (commencing with Section 11385) to Chapter 2 of Part 3 of Division 9 of, and to repeal and add Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Title 9 of, the Welfare and Institutions Code, relating to foster children.

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as amended, Beall. California Fostering Connections to Success Act.

(1) Existing law provides for the out-of-home placement of children who are unable to remain in the custody and care of their parent or parents, and provides for a range of child welfare, foster care, and adoption assistance services for which these children may be eligible.

Existing federal law, the Fostering Connections to Success and Increasing Adoptions Act of 2008, revises and expands federal programs and funding for certain foster and adopted children.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care facilities, including facilities that provide care for foster children, by the State Department of Social Services. A violation of these provisions is a misdemeanor.

Existing law authorizes the placement of children with varying designations and varying needs in the same facility under specified circumstances.

This bill would extend these provisions to also include nonminor dependents commencing January 1, 2012. The bill would define the term “nonminor dependent” and related terms for purposes of the bill.

This bill, commencing no later than July 1, 2012, would require the department, in consultation with specified government and other entities, to revise regulations regarding health and safety standards for licensing foster family homes and community care facilities in which nonminor dependents of the juvenile court are placed under the responsibility of the county welfare or probation department or an Indian tribe that has entered into a specified agreement with the department.

Under existing law, the California Community Care Facilities Act does not apply to designated categories of facilities, including, among others, the home of a relative caregiver or nonrelative extended family member of a child placed by a juvenile court, as specified.

This bill would include, on and after January 1, 2012, a supervised independent living setting, and a THP-Plus Foster Care Setting, as established by the bill, for a nonminor dependent placed by the juvenile court on the list of facilities to which the act does not apply.

(2) Existing law establishes the jurisdiction of the juvenile court, which is permitted to adjudge certain children to be dependents of the court under certain circumstances.

This bill would expand the jurisdiction of the juvenile court by allowing it, on and after a prescribed date, to adjudge a child placed voluntarily in an approved home of a relative for not more than 180 days a dependent child of the court, if prescribed conditions are met. This bill, effective January 1, 2012, would also include a child who had been previously removed from the custody of his or her parent and placed in foster care, who was also declared a ward of the juvenile court, as specified. The bill would authorize a court to modify an existing order with respect to a ward under these circumstances and assert dependency jurisdiction, as specified.

Existing law authorizes a juvenile court to retain jurisdiction over any person who is found to be a dependent child of the juvenile court until the ward or dependent child attains 21 years of age.

Existing law places certain minors for whom a guardianship has been established within the jurisdiction of the juvenile court.

This bill would expand the court's jurisdiction to include on and after January 1, 2012, a nonminor dependent who is eligible to receive specified kinship guardian assistance payments.

This bill would extend the court's jurisdiction to a ward who has been placed into foster care or a dependent who reaches the age of majority before jurisdiction is terminated until the nonminor reaches 21 years of age. The bill, commencing January 1, 2012, would allow a nonminor who left foster care at or after the age of majority to petition the court to have dependency jurisdiction resumed, in accordance with a provision of existing law. By making various conforming changes in provisions relating to the duties of local agency employees in dependency proceedings, this bill would create a state-mandated local program.

(3) Existing law authorizes a social worker to place a child whom the court has ordered to be removed from his or her home into one of

7 designated placements, including the home of a noncustodial parent or the approved home of a relative.

This bill would add to this list of approved placements, on and after January 1, 2012, a supervised independent living setting, as defined by the bill, for a nonminor dependent between 18 and 21 years of age.

(4) Existing law authorizes a change in the placement of a child on an emergency basis due to the sudden unavailability of a foster caregiver.

This bill, on and after January 1, 2012, would require, under these emergency circumstances, when a nonminor dependent is placed in the home of a relative or nonrelative, that the home be approved using the health and safety standards established by the department for the placement of nonminor dependents, as required by the bill.

(5) Existing law requires the status of dependent children to be periodically reviewed, and requires the court to consider the safety of the child and make certain determinations.

This bill similarly would require every nonminor dependent who is in foster care to be reviewed periodically as determined by the court, as specified. This bill, commencing January 1, 2012, would require the court to ensure that the child's transitional independent living case plan includes a plan for the child to meet one or more criteria that would allow the child to remain a nonminor dependent, and to ensure that the child has been informed of his or her right to seek the termination of dependency jurisdiction.

This bill, on and after October 1, 2012, would authorize a court to continue jurisdiction over a nonminor dependent with a permanent plan of long-term foster care, and would designate the responsibilities of the court in this regard.

(6) Existing law establishes procedures for a hearing to terminate the court's jurisdiction over a dependent child who has reached the age of majority.

This bill would delete the existing hearing procedures as of January 1, 2012, and would set forth revised hearing requirements for determining whether to terminate or continue dependency jurisdiction. The bill would require the court to continue dependency jurisdiction for a child participating in certain educational or vocational activities. This bill would impose various duties on county welfare departments in connection with the hearing process, thereby creating a state-mandated local program.

(7) Existing law requires the State Department of Social Services to develop statewide standards for the Independent Living Program for

emancipated foster youth which is established and funded pursuant to federal law to assist these individuals in making the transition to self-sufficiency. Under existing law, the department is required to develop and adopt emergency regulations that counties are required to meet when administering the program, that are achievable within available resources.

This bill would require the department to develop and adopt the Independent Living Program regulations on or before July 1, 2012, and would specify that the regulations be achievable within both available program resources and available federal funds for case management and case plan review provided for in the federal act. The bill would require the department, on or before July 1, 2011, to review and develop modifications to the Independent Living Program, to also serve the needs of nonminor dependent youth, as specified.

(8) Existing law prohibits benefits under the CalWORKs program from being paid to or on behalf of any child who has attained 18 years of age, unless the child is engaged in specified educational or training activities.

This bill, on and after January 1, 2012, also would authorize a nonminor dependent, as defined, to receive CalWORKs aid, as specified.

(9) Existing law authorizes a child who is declared a ward or dependent child of the court who is 16 years of age or older, to retain specified cash resources and still remain eligible to receive public social services.

This bill would apply this provision, on and after January 1, 2012, to a current or former dependent child or ward of the court between 18 and 21 years of age, who is participating in a transitional independent living case plan pursuant to the federal act.

(10) Existing law, through the Kinship Guardianship Assistance Payment Program (Kin-GAP), which is a part of the CalWORKs program, provides aid on behalf of eligible children who are placed in the home of a relative caretaker. The program is funded by state and county funding and available federal funds. Existing eligibility requirements for the Kin-GAP program include a requirement that a child has been living with a relative for at least 12 consecutive months.

This bill would reduce the above requirement to 6 months, consistent with federal law. To the extent that this would increase duties of counties administering the Kin-GAP program, this bill would impose a state-mandated local program.

This bill would revise the Kin-GAP Program, by repealing the existing program and enacting similar provisions, effective on the date that the Director of Social Services executes a declaration, as required by the bill, declaring that increased federal financial participation in the Emergency Contingency Fund for State TANF Programs is no longer available pursuant to the federal American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5), or subsequent federal legislation that maintains or extends increased federal financial participation to provide state-funded assistance for youth not eligible under the federally funded program and would require the state to exercise its option under specified federal law to establish a kinship guardianship assistance payment program, with components as set forth in the bill, for youth eligible for federal financial participation. This bill would require, as a condition of receiving payments under the revised Kin-GAP Program provisions, that a county welfare agency, probation department, or Indian tribe, as applicable, negotiate and enter into a written, binding kinship guardianship assistance agreement with the relative guardian of an eligible child, as prescribed. The bill also would make related conforming changes.

This bill, under the revised Kin-GAP Program provisions, also would require a county, at the time of the annual redetermination of state-funded Kin-GAP benefits, to determine whether a child was receiving federal AFDC-FC benefits before receiving Kin-GAP, while a dependent child or ward of the juvenile court. The bill would require the county to reassign these children to the county social worker for information regarding transition to the federal Kin-GAP program.

By increasing county responsibilities this bill would impose a state-mandated local program.

(11) Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. The program is funded by a combination of federal, state, and county funds. Under existing law, AFDC-FC benefits are available, with specified exceptions, on behalf of qualified children under 18 years of age.

This bill would require the department to amend its foster care state plan required under specified federal law, to extend AFDC-FC benefits, commencing January 1, 2012, to specified individuals up to 21 years of age, in accordance with a designated provision of federal law.

This bill would extend AFDC-FC benefits to nonminor dependents, as specified, on and after January 1, 2012, including revising AFDC-FC rate provisions to apply to these individuals. By expanding eligibility under the county-administered AFDC-FC program, the bill would impose a state-mandated local program.

(12) Under existing law, in order to be eligible for AFDC-FC benefits, a child must be placed in one of 8 designated placements.

This bill would add to the eligible AFDC-FC placements, with respect to an otherwise eligible youth over 18 years of age, an independent, supervised independent living setting. By increasing county duties in administering the AFDC-FC program, the bill would impose a state-mandated local program.

(13) Under existing law, a minor between 16 and 18 years of age who is eligible for AFDC-FC benefits and who meets other specified requirements is eligible for certain transitional housing placement program services in a participating county.

This bill, commencing January 1, 2012, would make a nonminor dependent who is eligible for AFDC-FC benefits also eligible for transitional housing benefits.

This bill would revise existing provisions relating to the resolution of certain foster care overpayments to apply to Kin-GAP guardian homes and payments on behalf of nonminor dependents residing in supervised independent living settings.

(14) Under existing law, a parent or caretaker relative is ineligible to receive CalWORKs aid when he or she has received aid for a cumulative total of 60 months. Existing law excludes from this calculation months when designated conditions exist.

This bill, commencing January 1, 2012, would additionally exclude from the above calculation months when a recipient is a nonminor dependent participating in educational or training activities, as prescribed.

Moneys from the General Fund are continuously appropriated to pay for a portion of CalWORKs aid grant costs, and for the state's share of AFDC-FC costs.

This bill would provide that no appropriation from the General Fund would be made for the purposes of implementing these provisions.

By increasing duties of counties administering the AFDC-FC program, this bill also would impose a state-mandated local program.

(15) Existing law provides for the Adoption Assistance Program (AAP), to be established and administered by the State Department of

Social Services or the county, for the purpose of benefiting children residing in foster homes by providing the stability and security of permanent homes. The AAP provides for the payment by the department and counties, of cash assistance to eligible families that adopt eligible children, and bases the amount of the payment on the needs of the child and the resources of the family to meet those needs. Existing law sets forth eligibility requirements for the AAP, including that a child must be under 18 years of age, or under 21 years of age with a mental or physical disability that warrants continued assistance.

This bill would additionally include children under 21 years of age who turned 16 years of age before the adoption assistance agreement became effective, and is involved in designated education or employment activities, or is incapable of engaging in these activities due to a medical condition. Payment of adoption assistance would be available for these individuals commencing January 1, 2012, as long as specified federal funds remain available and the state continues to exercise its option to extend payments up to 21 years of age pursuant to the federal act.

(16) Existing law requires the state, through the department and county welfare departments, to establish and support a public system of statewide child welfare services. Under existing law, the term “child welfare services” includes various services provided on behalf of children alleged to be the victims of child abuse, neglect, or exploitation. Existing law establishes the case plan as the foundation and central unifying tool in the provision of child welfare services.

This bill would revise the definition of child welfare services to include transitional independent living services, as needed in connection with the provision of other permanent placement services. The bill would revise the requirements for the case plan, effective January 1, 2012, with respect to nonminor dependents, to address the developmental needs of young adults, as specified. The bill would also require the case plan to specify why a group home placement, if made, is necessary for the nonminor dependent’s transition to independent living, and would require the nonminor dependent to participate and develop, and to sign, his or her case plan, commencing January 1, 2012. By increasing the duties of counties in preparing case plans, the bill would impose a state-mandated local program.

This bill would revise the definition of a whole family foster home, to include a home that provides foster care for a nonminor dependent parent and his or her child, for purposes of the AFDC-FC program.

Effective January 1, 2012, the bill would require that the same rate be paid for the care and supervision of the child of a nonminor dependent as is paid for the child of a teen parent in a whole family foster home. The bill would make other provisions applicable to a teen parent, for purposes of the child welfare services program, also applicable to certain nonminor dependents living in a whole family foster home.

Existing law limits child welfare services for voluntarily placed children to a period not to exceed 6 consecutive months, as specified.

This bill would, instead, limit the services to a period not to exceed 180 days, and would make conforming changes.

(17) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 “California Fostering Connections to Success Act.”
3 SEC. 2. Section 17552 of the Family Code is amended to read:
4 17552. (a) The State Department of Social Services, in
5 consultation with the Department of Child Support Services, shall
6 promulgate regulations by which the county child welfare
7 department, in any case of separation or desertion of a parent or
8 parents from a child that results in foster care assistance payments
9 under Section 11400 of, or CalWORKs payments to a caretaker
10 relative of a child who comes within the jurisdiction of the juvenile
11 court under Section 300, 601, or 602 of the Welfare and Institutions
12 Code, who has been removed from the parental home and placed
13 with the caretaker relative by court order, and who is under the
14 supervision of the county child welfare agency or probation
15 department under Section 11250 of, or Kin-GAP payments under
16 Article 4.5 (commencing with Section 11360) or Article 4.7

(commencing with Section 11385) of, or aid under subdivision (c) of Section 10101 of, the Welfare and Institutions Code, shall determine whether it is in the best interests of the child to have the case referred to the local child support agency for child support services. If reunification services are not offered or are terminated, the case may be referred to the local child support agency, unless the child's permanent plan is *legal guardianship with a relative who is receiving Kin-GAP* and the payment of support by the parent may compromise the stability of the related guardianship. In making the determination, the department regulations shall provide the factors the county child welfare department shall consider, including:

(1) Whether the payment of support by the parent will pose a barrier to the proposed reunification, in that the payment of support will compromise the parent's ability to meet the requirements of the parent's reunification plan.

(2) Whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise the parent's current or future ability to meet the financial needs of the child.

(b) The department regulations shall provide that, where the county child welfare department determines that it is not in the best interests of the child to seek a support order against the parent, the county child welfare department shall refrain from referring the case to the local child support agency. The regulations shall define those circumstances in which it is not in the best interest of the child to refer the case to the local child support agency.

(c) The department regulations shall provide, where the county child welfare department determines that it is not in the child's best interest to have his or her case referred to the local child support agency, the county child welfare department shall review that determination annually to coincide with the redetermination of AFDC-FC eligibility under Section 11401.5 of, or the CalWORKs eligibility under Section 11265 of, or Kin-GAP eligibility under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9 of, the Welfare and Institutions Code, and shall refer the child's case to the local child support agency upon a determination that, due to a change in the child's circumstances,

1 it is no longer contrary to the child's best interests to have his or
2 her case referred to the local child support agency.

3 (d) The State Department of Social Services shall promulgate
4 all necessary regulations pursuant to this section on or before
5 October 1, 2002.

6 SEC. 3. Section 1501.1 of the Health and Safety Code is
7 amended to read:

8 1501.1. (a) It is the policy of the state to facilitate the proper
9 placement of every child in residential care facilities where the
10 placement is in the best interests of the child. A county may require
11 placement or licensing agencies, or both placement and licensing
12 agencies, to actively seek out-of-home care facilities capable of
13 meeting the varied needs of the child. Therefore, in placing children
14 in out-of-home care, particular attention should be given to the
15 individual child's needs, the ability of the facility to meet those
16 needs, the needs of other children in the facility, the licensing
17 requirements of the facility as determined by the licensing agency,
18 and the impact of the placement on the family reunification plan.

19 (b) Pursuant to this section, children with varying designations
20 and varying needs, including, on and after January 1, 2012,
21 nonminor dependents, as defined in subdivision (v) of Section
22 11400 of the Welfare and Institutions Code, except as provided
23 by statute, may be placed in the same facility provided the facility
24 is licensed, complies with all licensing requirements relevant to
25 the protection of the child, and has a special permit, if necessary,
26 to meet the needs of each child so placed. A facility may not
27 require, as a condition of placement, that a child be identified as
28 an individual with exceptional needs as defined by Section 56026
29 of the Education Code.

30 (c) Neither the requirement for any license nor any regulation
31 shall restrict the implementation of the provisions of this section.
32 Implementation of this section does not obviate the requirement
33 for a facility to be licensed by the department.

34 (d) Pursuant to this section, children with varying designations
35 and varying needs, including, on and after January 1, 2012,
36 nonminor dependents, except as provided by statute, may be placed
37 in the same licensed foster family home or with a foster family
38 agency for subsequent placement in a certified family home.
39 Children with developmental disabilities, mental disorders, or
40 physical disabilities may be placed in licensed foster family homes

1 or certified family homes, provided that an appraisal of the child's
2 needs and the ability of the receiving home to meet those needs is
3 made jointly by the placement agency and the licensee in the case
4 of licensed foster family homes or the placement agency and the
5 foster family agency in the case of certified family homes, and is
6 followed by written confirmation prior to placement. The appraisal
7 shall confirm that the placement poses no threat to any child in the
8 home.

9 For purposes of this chapter, the placing of children by foster
10 family agencies shall be referred to as "subsequent placement" to
11 distinguish the activity from the placing by public agencies.

12 SEC. 4. Section 1502.7 is added to the Health and Safety Code,
13 to read:

14 1502.7. (a) On or before July 1, 2012, the department, in
15 consultation with representatives of the Legislature, the County
16 Welfare Directors Association, the Chief Probation Officers of
17 California, the California Youth Connection, the Judicial Council,
18 former foster youth, child advocacy organizations, dependency
19 counsel for children, juvenile justice advocacy organizations, foster
20 caregiver organizations, labor organizations, and representatives
21 of tribes, shall revise regulations regarding health and safety
22 standards for licensing foster family homes and community care
23 facilities in which nonminor dependents, as defined in subdivision
24 (v) of Section 11400 of the Welfare and Institutions Code, of the
25 juvenile court are placed under the responsibility of the county
26 welfare or probation department or an Indian tribe that entered
27 into an agreement pursuant to Section 10553.1 of the Welfare and
28 Institutions Code.

29 (b) The regulations shall recognize the status of nonminor
30 dependents as legal adults. At a minimum, the regulations shall
31 provide both of the following:

32 (1) That nonminors described in subdivision (a) shall have the
33 greatest amount of freedom that will safely prepare them for
34 self-sufficiency.

35 (2) That nonminors who remain in the same community care
36 facility that they were placed in while under 18 years of age, and
37 that facility has children under 18 years of age need not be subject
38 to criminal background clearances pursuant to Sections 1522 and
39 1522.1.

(c) Notwithstanding the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall, in consultation with the stakeholders listed in subdivision (a), prepare for implementation of the applicable provisions of this section by publishing all-county letters or similar instructions from the director by July 1, 2011, to apply from January 1, 2012, to June 30, 2012, inclusive. Emergency regulations to implement this section may be adopted by the director in accordance with the Administrative Procedure Act. The initial adoption of the emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the first readoption of those emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

SEC. 5. Section 1505 of the Health and Safety Code is amended to read:

1505. This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any child day care facility, as defined in Section 1596.750.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, homeless shelter, or other similar place that supplies board and room only, or room only, or

1 board only, provided that no resident thereof requires any element
2 of care as determined by the director.

3 (i) Recovery houses or other similar facilities providing group
4 living arrangements for persons recovering from alcoholism or
5 drug addiction where the facility provides no care or supervision.

6 (j) Any alcoholism or drug abuse recovery or treatment facility
7 as defined by Section 11834.11.

8 (k) Any arrangement for the receiving and care of persons by
9 a relative or any arrangement for the receiving and care of persons
10 from only one family by a close friend of the parent, guardian, or
11 conservator, if the arrangement is not for financial profit and occurs
12 only occasionally and irregularly, as defined by regulations of the
13 department. For purposes of this chapter, arrangements for the
14 receiving and care of persons by a relative shall include relatives
15 of the child for the purpose of keeping sibling groups together.

16 (l) (1) Any home of a relative caregiver of children who are
17 placed by a juvenile court, supervised by the county welfare or
18 probation department, and the placement of whom is approved
19 according to subdivision (d) of Section 309 of the Welfare and
20 Institutions Code.

21 (2) Any home of a nonrelative extended family member, as
22 described in Section 362.7 of the Welfare and Institutions Code,
23 providing care to children who are placed by a juvenile court,
24 supervised by the county welfare or probation department, and the
25 placement of whom is approved according to subdivision (d) of
26 Section 309 of the Welfare and Institutions Code.

27 (3) On and after January 1, 2012, any supervised independent
28 living setting for nonminor dependents, as defined in subdivision
29 (w) of Section 11400 of the Welfare and Institutions Code, who
30 are placed by the juvenile court, supervised by the county welfare
31 department, probation department, or Indian tribe that entered into
32 an agreement pursuant to Section 10553.1 of the Welfare and
33 Institutions Code, and whose placement is approved pursuant to
34 subdivision (k) of Section 11400 of the Welfare and Institutions
35 Code.

36 (4) On and after January 1, 2012, a THP-Plus Foster Care
37 setting, for nonminor dependents, as described in subdivision (v)
38 of Section 11400 of the Welfare and Institutions Code, who are
39 placed by the juvenile court, supervised by the county welfare
40 department or probation department and the placement of whom

1 is approved, in accordance with subdivision (k) of Section 11400
2 of the Welfare and Institutions Code.

3 (m) Any supported living arrangement for individuals with
4 developmental disabilities, as defined in Section 4689 of the
5 Welfare and Institutions Code.

6 (n) (1) Any family home agency, family home, or family
7 teaching home as defined in Section 4689.1 of the Welfare and
8 Institutions Code, that is vendored by the State Department of
9 Developmental Services and that does any of the following:

10 (A) As a family home approved by a family home agency,
11 provides 24-hour care for one or two adults with developmental
12 disabilities in the residence of the family home provider or
13 providers and the family home provider or providers' family, and
14 the provider is not licensed by the State Department of Social
15 Services or the State Department of Public Health or certified by
16 a licensee of the State Department of Social Services or the State
17 Department of Public Health.

18 (B) As a family teaching home approved by a family home
19 agency, provides 24-hour care for a maximum of three adults with
20 developmental disabilities in independent residences, whether
21 contiguous or attached, and the provider is not licensed by the
22 State Department of Social Services or the State Department of
23 Public Health or certified by a licensee of the State Department of
24 Social Services or the State Department of Public Health.

25 (C) As a family home agency, engages in recruiting, approving,
26 and providing support to family homes.

27 (2) No part of this subdivision shall be construed as establishing
28 by implication either a family home agency or family home
29 licensing category.

30 (o) Any facility in which only Indian children who are eligible
31 under the federal Indian Child Welfare Act (Chapter 21
32 (commencing with Section 1901) of Title 25 of the United States
33 Code) are placed and that is one of the following:

34 (1) An extended family member of the Indian child, as defined
35 in Section 1903 of Title 25 of the United States Code.

36 (2) A foster home that is licensed, approved, or specified by the
37 Indian child's tribe pursuant to Section 1915 of Title 25 of the
38 United States Code.

39 (p) (1) (A) Any housing occupied by elderly or disabled
40 persons, or both, that is initially approved and operated under a

1 regulatory agreement pursuant to Section 202 of Public Law 86-372
2 (12 U.S.C. Sec. 1701q), or Section 811 of Public Law 101-625
3 (42 U.S.C. Sec. 8013), or whose mortgage is insured pursuant to
4 Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or that
5 receives mortgage assistance pursuant to Section 221d (3) of Public
6 Law 87-70 (12 U.S.C. Sec. 1715l), where supportive services are
7 made available to residents at their option, as long as the project
8 owner or operator does not contract for or provide the supportive
9 services.

10 (B) Any housing that qualifies for a low-income housing credit
11 pursuant to Section 252 of Public Law 99-514 (26 U.S.C. Sec. 42)
12 or that is subject to the requirements for rental dwellings for
13 low-income families pursuant to Section 8 of Public Law 93-383
14 (42 U.S.C. Sec. 1437f), and that is occupied by elderly or disabled
15 persons, or both, where supportive services are made available to
16 residents at their option, as long as the project owner or operator
17 does not contract for or provide the supportive services.

18 (2) The project owner or operator to which paragraph (1) applies
19 may coordinate, or help residents gain access to, the supportive
20 services, either directly, or through a service coordinator.

21 (q) Any similar facility determined by the director.

22 SEC. 5.5. Section 241.1 of the Welfare and Institutions Code
23 is amended to read:

24 241.1. (a) Whenever a minor appears to come within the
25 description of both Section 300 and Section 601 or 602, the county
26 probation department and the child welfare services department
27 shall, pursuant to a jointly developed written protocol described
28 in subdivision (b), initially determine which status will serve the
29 best interests of the minor and the protection of society. The
30 recommendations of both departments shall be presented to the
31 juvenile court with the petition that is filed on behalf of the minor,
32 and the court shall determine which status is appropriate for the
33 minor. Any other juvenile court having jurisdiction over the minor
34 shall receive notice from the court, within five calendar days, of
35 the presentation of the recommendations of the departments. The
36 notice shall include the name of the judge to whom, or the
37 courtroom to which, the recommendations were presented.

38 (b) The probation department and the child welfare services
39 department in each county shall jointly develop a written protocol
40 to ensure appropriate local coordination in the assessment of a

1 minor described in subdivision (a), and the development of
2 recommendations by these departments for consideration by the
3 juvenile court. These protocols shall require, but not be limited to,
4 consideration of the nature of the referral, the age of the minor,
5 the prior record of the minor's parents for child abuse, the prior
6 record of the minor for out-of-control or delinquent behavior, the
7 parents' cooperation with the minor's school, the minor's
8 functioning at school, the nature of the minor's home environment,
9 and the records of other agencies that have been involved with the
10 minor and his or her family. The protocols also shall contain
11 provisions for resolution of disagreements between the probation
12 and child welfare services departments regarding the need for
13 dependency or ward status and provisions for determining the
14 circumstances under which a request to the court may be made to
15 consider a change in the minor's status.

16 (c) Whenever a minor who is under the jurisdiction of the
17 juvenile court of a county pursuant to Section 300, 601, or 602 is
18 alleged to come within the description of Section 300, 601, or 602
19 by another county, the county probation department or child
20 welfare services department in the county that has jurisdiction
21 under Section 300, 601, or 602 and the county probation
22 department or child welfare services department of the county
23 alleging the minor to be within one of those sections shall initially
24 determine which status will best serve the best interests of the
25 minor and the protection of society. The recommendations of both
26 departments shall be presented to the juvenile court in which the
27 petition is filed on behalf of the minor, and the court shall
28 determine which status is appropriate for the minor. In making
29 their recommendation to the juvenile court, the departments shall
30 conduct an assessment consistent with the requirements of
31 subdivision (b). Any other juvenile court having jurisdiction over
32 the minor shall receive notice from the court in which the petition
33 is filed within five calendar days of the presentation of the
34 recommendations of the departments. The notice shall include the
35 name of the judge to whom, or the courtroom to which, the
36 recommendations were presented.

37 (d) Except as provided in subdivision (e), nothing in this section
38 shall be construed to authorize the filing of a petition or petitions,
39 or the entry of an order by the juvenile court, to make a minor
40 simultaneously both a dependent child and a ward of the court.

1 However, on and after January 1, 2012, the court may modify its
2 order of jurisdiction pursuant to Section 601 or 602, and assert
3 dependency jurisdiction pursuant to subdivision (l) of Section 300.

4 (e) Notwithstanding subdivision (d), the probation department
5 and the child welfare services department, in consultation with the
6 presiding judge of the juvenile court, in any county may create a
7 jointly written protocol to allow the county probation department
8 and the child welfare services department to jointly assess and
9 produce a recommendation that the child be designated as a dual
10 status child, allowing the child to be simultaneously a dependent
11 child and a ward of the court. This protocol shall be signed by the
12 chief probation officer, the director of the county social services
13 agency, and the presiding judge of the juvenile court prior to its
14 implementation. No juvenile court may order that a child is
15 simultaneously a dependent child and a ward of the court pursuant
16 to this subdivision unless and until the required protocol has been
17 created and entered into. This protocol shall include all of the
18 following:

19 (1) A description of the process to be used to determine whether
20 the child is eligible to be designated as a dual status child.

21 (2) A description of the procedure by which the probation
22 department and the child welfare services department will assess
23 the necessity for dual status for specified children and the process
24 to make joint recommendations for the court's consideration prior
25 to making a determination under this section. These
26 recommendations shall ensure a seamless transition from wardship
27 to dependency jurisdiction, as appropriate, so that services to the
28 child are not disrupted upon termination of the wardship.

29 (3) A provision for ensuring communication between the judges
30 who hear petitions concerning children for whom dependency
31 jurisdiction has been suspended while they are within the
32 jurisdiction of the juvenile court pursuant to Section 601 or 602.
33 A judge may communicate by providing a copy of any reports
34 filed pursuant to Section 727.2 concerning a ward to a court that
35 has jurisdiction over dependency proceedings concerning the child.

36 (4) A plan to collect data in order to evaluate the protocol
37 pursuant to Section 241.2.

38 (5) Counties that exercise the option provided for in this
39 subdivision shall adopt either an "on-hold" system as described
40 in subparagraph (A) or a "lead court/lead agency" system as

1 described in subparagraph (B). In no case shall there be any
2 simultaneous or duplicative case management or services provided
3 by both the county probation department and the child welfare
4 services department. It is the intent of the Legislature that judges,
5 in cases in which more than one judge is involved, shall not issue
6 conflicting orders.

7 (A) In counties in which an on-hold system is adopted, the
8 dependency jurisdiction shall be suspended or put on hold while
9 the child is subject to jurisdiction as a ward of the court. When it
10 appears that termination of the court's jurisdiction, as established
11 pursuant to Section 601 or 602, is likely and that reunification of
12 the child with his or her parent or guardian would be detrimental
13 to the child, the county probation department and the child welfare
14 services department shall jointly assess and produce a
15 recommendation for the court regarding whether the court's
16 dependency jurisdiction shall be resumed.

17 (B) In counties in which a lead court/lead agency system is
18 adopted, the protocol shall include a method for identifying which
19 court or agency will be the lead court/lead agency. That court or
20 agency shall be responsible for case management, conducting
21 statutorily mandated court hearings, and submitting court reports.

22 SEC. 6. Section 293 of the Welfare and Institutions Code is
23 amended to read:

24 293. The social worker or probation officer shall give notice
25 of the review hearings held pursuant to Section 366.21, 366.22,
26 or 366.25 in the following manner:

27 (a) Notice of the hearing shall be given to the following persons:

- 28 (1) The mother.
- 29 (2) The presumed father or any father receiving services.
- 30 (3) The legal guardian or guardians.
- 31 (4) The child, if the child is 10 years of age or older.
- 32 (5) Any known sibling of the child who is the subject of the
33 hearing if that sibling either is the subject of a dependency
34 proceeding or has been adjudged to be a dependent child of the
35 juvenile court. If the sibling is 10 years of age or older, the sibling,
36 the sibling's caregiver, and the sibling's attorney. If the sibling is
37 under 10 years of age, the sibling's caregiver and the sibling's
38 attorney. However, notice is not required to be given to any sibling
39 whose matter is calendared in the same court on the same day.

(6) In the case of a child removed from the physical custody of his or her parent or legal guardian, the current caregiver of the child, including the foster parents, relative caregivers, preadoptive parents, nonrelative extended family members, community care facility, or foster family agency having custody of the child. In a case in which a foster family agency is notified of the hearing pursuant to this section, and the child resides in a foster home certified by the foster family agency, the foster family agency shall provide timely notice of the hearing to the child's caregivers.

(7) Each attorney of record if that attorney was not present at the time that the hearing was set by the court.

(b) No notice is required for a parent whose parental rights have been terminated. On and after January 1, 2010, in the case of a nonminor dependent, as described in subdivision (v) of Section 11400, no notice is required for a parent.

(c) The notice of hearing shall be served not earlier than 30 days, nor later than 15 days, before the hearing.

(d) The notice shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the child being recommended by the supervising agency. If the notice is to the child, parent or parents, or legal guardian or guardians, the notice shall also advise them of the right to be present, the right to be represented by counsel, the right to request counsel, and the right to present evidence. The notice shall also state that if the parent or parents or legal guardian or guardians fail to appear, the court may proceed without them.

(e) Service of the notice shall be by first-class mail addressed to the last known address of the person to be noticed or by personal service on the person. Service of a copy of the notice shall be by personal service or by certified mail, return receipt requested, or any other form of notice that is equivalent to service by first-class mail.

(f) Notice to the current caregiver of the child, including a foster parent, a relative caregiver, a preadoptive parent, or a nonrelative extended family member, or to a certified foster parent who has been approved for adoption, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, shall indicate that the person notified may attend

1 all hearings or may submit any information he or she deems
2 relevant to the court in writing.

3 (g) If the social worker or probation officer knows or has reason
4 to know that an Indian child is involved, notice shall be given in
5 accordance with Section 224.2.

6 SEC. 6.5. Section 295 of the Welfare and Institutions Code is
7 amended to read:

8 295. The social worker or probation officer shall give notice
9 of review hearings held pursuant to Section 366.3 in the following
10 manner:

11 (a) Notice of the hearing shall be given to the following persons:

12 (1) The mother.

13 (2) The presumed father.

14 (3) The legal guardian or guardians.

15 (4) The child, if the child is 10 years of age or older.

16 (5) Any known sibling of the child who is the subject of the
17 hearing if that sibling either is the subject of a dependency
18 proceeding or has been adjudged to be a dependent child of the
19 juvenile court. If the sibling is 10 years of age or older, the sibling,
20 the sibling's caregiver, and the sibling's attorney. If the sibling is
21 under 10 years of age, the sibling's caregiver and the sibling's
22 attorney. However, notice is not required to be given to any sibling
23 whose matter is calendared in the same court on the same day.

24 (6) The current caregiver of the child, including foster parents,
25 relative caregivers, preadoptive parents, nonrelative extended
26 family members, community care facility, or foster family agency
27 having physical custody of the child if a child is removed from the
28 physical custody of the parents or legal guardian. The person
29 notified may attend all hearings and may submit any information
30 he or she deems relevant to the court in writing.

31 (7) The attorney of record if that attorney of record was not
32 present at the time that the hearing was set by the court.

33 (8) The alleged father or fathers, but only if the recommendation
34 is to set a new hearing pursuant to Section 366.26.

35 (b) No notice is required for a parent whose parental rights have
36 been terminated. On and after January 1, 2012, in the case of a
37 nonminor dependent, as described in subdivision (v) of Section
38 11400, no notice is required for a parent.

39 (c) The notice of the review hearing shall be served no earlier
40 than 30 days, nor later than 15 days, before the hearing.

1 (d) The notice of the review hearing shall contain a statement
2 regarding the nature of the hearing to be held, any recommended
3 change in the custody or status of the child, and any
4 recommendation that the court set a new hearing pursuant to
5 Section 366.26 in order to select a more permanent plan.

6 (e) Service of notice shall be by first-class mail addressed to
7 the last known address of the person to be provided notice. In the
8 case of an Indian child, notice shall be by registered mail, return
9 receipt requested.

10 (f) If the child is ordered into a permanent plan of legal
11 guardianship, and subsequently a petition to terminate or modify
12 the guardianship is filed, the probation officer or social worker
13 shall serve notice of the petition not less than 15 court days prior
14 to the hearing on all persons listed in subdivision (a) and on the
15 court that established legal guardianship if it is in another county.

16 (g) If the social worker or probation officer knows or has reason
17 to know that an Indian child is involved, notice shall be given in
18 accordance with Section 224.2.

19 SEC. 6.7. Section 297 of the Welfare and Institutions Code is
20 amended to read:

21 297. (a) Notice required for an initial petition filed pursuant
22 to Section 300 is applicable to a subsequent petition filed pursuant
23 to Section 342.

24 (b) Upon the filing of a supplemental petition pursuant to Section
25 387, the clerk of the juvenile court shall immediately set the matter
26 for hearing within 30 days of the date of the filing, and the social
27 worker or probation officer shall cause notice thereof to be served
28 upon the persons required by, and in the manner prescribed by,
29 Sections 290.1, 290.2, and 291.

30 (c) If a petition for modification has been filed pursuant to
31 Section 388, and it appears that the best interest of the child may
32 be promoted by the proposed change of the order, the recognition
33 of a sibling relationship, or the termination of jurisdiction, the
34 court shall order that a hearing be held and shall give prior notice,
35 or cause prior notice to be given, to the social worker or probation
36 officer and to the child's attorney of record, or if there is no
37 attorney of record for the child, to the child, and his or her parent
38 or parents or legal guardian or guardians in the manner prescribed
39 by Section 291 unless a different manner is prescribed by the court.

1 (d) If the court knows or has reason to know that an Indian child
2 is involved, notice shall be given in accordance with Section 224.2.

3 (e) On and after January 1, 2012, if a petition for modification
4 has been filed pursuant to subdivision (e) of Section 388 by a
5 nonminor dependent, as described in subdivision (v) of Section
6 11400, no notice is required for a parent.

7 SEC. 7. Section 300 of the Welfare and Institutions Code is
8 amended to read:

9 300. Any child who comes within any of the following
10 descriptions is within the jurisdiction of the juvenile court which
11 may adjudge that person to be a dependent child of the court:

12 (a) The child has suffered, or there is a substantial risk that the
13 child will suffer, serious physical harm inflicted nonaccidentally
14 upon the child by the child's parent or guardian. For the purposes
15 of this subdivision, a court may find there is a substantial risk of
16 serious future injury based on the manner in which a less serious
17 injury was inflicted, a history of repeated inflictions of injuries on
18 the child or the child's siblings, or a combination of these and other
19 actions by the parent or guardian which indicate the child is at risk
20 of serious physical harm. For purposes of this subdivision, "serious
21 physical harm" does not include reasonable and age-appropriate
22 spanking to the buttocks where there is no evidence of serious
23 physical injury.

24 (b) The child has suffered, or there is a substantial risk that the
25 child will suffer, serious physical harm or illness, as a result of the
26 failure or inability of his or her parent or guardian to adequately
27 supervise or protect the child, or the willful or negligent failure of
28 the child's parent or guardian to adequately supervise or protect
29 the child from the conduct of the custodian with whom the child
30 has been left, or by the willful or negligent failure of the parent or
31 guardian to provide the child with adequate food, clothing, shelter,
32 or medical treatment, or by the inability of the parent or guardian
33 to provide regular care for the child due to the parent's or
34 guardian's mental illness, developmental disability, or substance
35 abuse. No child shall be found to be a person described by this
36 subdivision solely due to the lack of an emergency shelter for the
37 family. Whenever it is alleged that a child comes within the
38 jurisdiction of the court on the basis of the parent's or guardian's
39 willful failure to provide adequate medical treatment or specific
40 decision to provide spiritual treatment through prayer, the court

1 shall give deference to the parent's or guardian's medical treatment,
2 nontreatment, or spiritual treatment through prayer alone in
3 accordance with the tenets and practices of a recognized church
4 or religious denomination, by an accredited practitioner thereof,
5 and shall not assume jurisdiction unless necessary to protect the
6 child from suffering serious physical harm or illness. In making
7 its determination, the court shall consider (1) the nature of the
8 treatment proposed by the parent or guardian, (2) the risks to the
9 child posed by the course of treatment or nontreatment proposed
10 by the parent or guardian, (3) the risk, if any, of the course of
11 treatment being proposed by the petitioning agency, and (4) the
12 likely success of the courses of treatment or nontreatment proposed
13 by the parent or guardian and agency. The child shall continue to
14 be a dependent child pursuant to this subdivision only so long as
15 is necessary to protect the child from risk of suffering serious
16 physical harm or illness.

17 (c) The child is suffering serious emotional damage, or is at
18 substantial risk of suffering serious emotional damage, evidenced
19 by severe anxiety, depression, withdrawal, or untoward aggressive
20 behavior toward self or others, as a result of the conduct of the
21 parent or guardian or who has no parent or guardian capable of
22 providing appropriate care. No child shall be found to be a person
23 described by this subdivision if the willful failure of the parent or
24 guardian to provide adequate mental health treatment is based on
25 a sincerely held religious belief and if a less intrusive judicial
26 intervention is available.

27 (d) The child has been sexually abused, or there is a substantial
28 risk that the child will be sexually abused, as defined in Section
29 11165.1 of the Penal Code, by his or her parent or guardian or a
30 member of his or her household, or the parent or guardian has
31 failed to adequately protect the child from sexual abuse when the
32 parent or guardian knew or reasonably should have known that
33 the child was in danger of sexual abuse.

34 (e) The child is under the age of five years and has suffered
35 severe physical abuse by a parent, or by any person known by the
36 parent, if the parent knew or reasonably should have known that
37 the person was physically abusing the child. For the purposes of
38 this subdivision, "severe physical abuse" means any of the
39 following: any single act of abuse which causes physical trauma
40 of sufficient severity that, if left untreated, would cause permanent

1 physical disfigurement, permanent physical disability, or death;
2 any single act of sexual abuse which causes significant bleeding,
3 deep bruising, or significant external or internal swelling; or more
4 than one act of physical abuse, each of which causes bleeding,
5 deep bruising, significant external or internal swelling, bone
6 fracture, or unconsciousness; or the willful, prolonged failure to
7 provide adequate food. A child may not be removed from the
8 physical custody of his or her parent or guardian on the basis of a
9 finding of severe physical abuse unless the social worker has made
10 an allegation of severe physical abuse pursuant to Section 332.

11 (f) The child's parent or guardian caused the death of another
12 child through abuse or neglect.

13 (g) The child has been left without any provision for support;
14 physical custody of the child has been voluntarily surrendered
15 pursuant to Section 1255.7 of the Health and Safety Code and the
16 child has not been reclaimed within the 14-day period specified
17 in subdivision (e) of that section; the child's parent has been
18 incarcerated or institutionalized and cannot arrange for the care of
19 the child; or a relative or other adult custodian with whom the child
20 resides or has been left is unwilling or unable to provide care or
21 support for the child, the whereabouts of the parent are unknown,
22 and reasonable efforts to locate the parent have been unsuccessful.

23 (h) The child has been freed for adoption by one or both parents
24 for 12 months by either relinquishment or termination of parental
25 rights or an adoption petition has not been granted.

26 (i) The child has been subjected to an act or acts of cruelty by
27 the parent or guardian or a member of his or her household, or the
28 parent or guardian has failed to adequately protect the child from
29 an act or acts of cruelty when the parent or guardian knew or
30 reasonably should have known that the child was in danger of
31 being subjected to an act or acts of cruelty.

32 (j) The child's sibling has been abused or neglected, as defined
33 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk
34 that the child will be abused or neglected, as defined in those
35 subdivisions. The court shall consider the circumstances
36 surrounding the abuse or neglect of the sibling, the age and gender
37 of each child, the nature of the abuse or neglect of the sibling, the
38 mental condition of the parent or guardian, and any other factors
39 the court considers probative in determining whether there is a
40 substantial risk to the child.

1 (k) On and after the date that the director executes a declaration
2 pursuant to Section 11217, the child has been placed in an approved
3 relative's home under a voluntary placement agreement pursuant
4 to Section 16507.6 for a period not to exceed 180 days, the parent
5 or guardian is not interested in additional family maintenance or
6 family reunification services, out-of-home placement is in the best
7 interests of the child, and guardianship of the child by that relative
8 is an appropriate option.

9 (l) Effective on and after January 1, 2012, the child was
10 previously removed from the physical custody of the parent or
11 guardian and placed in foster care pursuant to this section or
12 Section 727, and was also declared a ward of the court pursuant
13 to Section 601 or 602 and the court finds that modification of its
14 jurisdiction pursuant to Section 601 or 602 is appropriate, and that
15 immediate return of the child to his or her parent or guardian would
16 be detrimental to the child. This subdivision shall not be the basis
17 for the filing of a petition pursuant to Section 325, but shall only
18 be the basis for modifying the existing jurisdiction of the juvenile
19 court in order to finalize a permanent plan for the child or to allow
20 the child or nonminor dependant to voluntarily remain in foster
21 care pursuant to Section 11403.

22 It is the intent of the Legislature that nothing in this section
23 disrupt the family unnecessarily or intrude inappropriately into
24 family life, prohibit the use of reasonable methods of parental
25 discipline, or prescribe a particular method of parenting. Further,
26 nothing in this section is intended to limit the offering of voluntary
27 services to those families in need of assistance but who do not
28 come within the descriptions of this section. To the extent that
29 savings accrue to the state from child welfare services funding
30 obtained as a result of the enactment of the act that enacted this
31 section, those savings shall be used to promote services which
32 support family maintenance and family reunification plans, such
33 as client transportation, out-of-home respite care, parenting
34 training, and the provision of temporary or emergency in-home
35 caretakers and persons teaching and demonstrating homemaking
36 skills. The Legislature further declares that a physical disability,
37 such as blindness or deafness, is no bar to the raising of happy and
38 well-adjusted children and that a court's determination pursuant
39 to this section shall center upon whether a parent's disability
40 prevents him or her from exercising care and control. The

1 Legislature further declares that a child whose parent has been
2 adjudged a dependent child of the court pursuant to this section
3 shall not be considered to be at risk of abuse or neglect solely
4 because of the age, dependent status, or foster care status of the
5 parent.

6 As used in this section, “guardian” means the legal guardian of
7 the child.

8 SEC. 7.5. Section 300.3 is added to the Welfare and Institutions
9 Code, to read:

10 300.3. (a) Notwithstanding Section 215 or 272, or any other
11 provision of law, a child or nonminor who is found to be a
12 dependent of the court pursuant to subdivision (l) of Section 300
13 and placed in foster care shall be supervised by the probation
14 department of the county in which the court with jurisdiction over
15 the dependent is located. All case management, case plan review
16 and reporting functions as described in Sections 671 and 675 of
17 Title 42 of the United States Code and contained in this article
18 shall be performed by the probation officer for these dependents.

19 (b) This section shall become operative on January 1, 2012.

20 SEC. 8. Section 303 of the Welfare and Institutions Code is
21 amended to read:

22 303. (a) The court may retain jurisdiction over any person who
23 is found to be a dependent child of the juvenile court until the ward
24 or dependent child attains the age of 21 years.

25 (b) On and after January 1, 2012, the court shall have within its
26 jurisdiction any nonminor dependent, as defined in subdivision
27 (v) of Section 11400. The court may terminate its dependency or
28 delinquency jurisdiction over the nonminor dependent between
29 the time the nonminor reaches the age of majority and 21 years of
30 age. If the court terminates dependency or delinquency jurisdiction,
31 the nonminor dependent shall remain under the jurisdiction of the
32 court in order to allow for a petition under subdivision (e) of
33 Section 388.

34 (c) On and after January 1, 2012, a nonminor who has not yet
35 attained 21 years of age and who exited foster care at or after the
36 age of majority may petition the court pursuant to subdivision (e)
37 of Section 388 to resume dependency or delinquency jurisdiction
38 over the nonminor dependent.

39 (d) Nothing in this code, including, but not limited to, Sections
40 340, 366.27, and 369.5, shall be construed to provide legal custody

1 of a person who has attained 18 years of age to the county welfare
2 or probation department or to otherwise abrogate any other rights
3 that a person who has attained 18 years of age may have as an
4 adult under California law. A nonminor dependent shall retain all
5 of his or her legal decisionmaking authority as an adult.

6 (e) Unless otherwise specified the rights of a dependent child
7 and the responsibilities of the county welfare or probation
8 department, or tribe, and other entities, toward the child and family,
9 shall also apply to nonminor dependents.

10 SEC. 8.5. Section 317 of the Welfare and Institutions Code is
11 amended to read:

12 317. (a) (1) When it appears to the court that a parent or
13 guardian of the child desires counsel but is presently financially
14 unable to afford and cannot for that reason employ counsel, the
15 court may appoint counsel as provided in this section.

16 (2) When it appears to the court that a parent or Indian custodian
17 in an Indian child custody proceeding desires counsel but is
18 presently unable to afford and cannot for that reason employ
19 counsel, the provisions of subsection (b) of Section 1912 of the
20 Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) and Section
21 23.13 of Title 25 of the Code of Federal Regulations are applicable.

22 (b) When it appears to the court that a parent or guardian of the
23 child is presently financially unable to afford and cannot for that
24 reason employ counsel, and the child has been placed in
25 out-of-home care, or the petitioning agency is recommending that
26 the child be placed in out-of-home care, the court shall appoint
27 counsel for the parent or guardian, unless the court finds that the
28 parent or guardian has made a knowing and intelligent waiver of
29 counsel as provided in this section.

30 (c) If a child is not represented by counsel, the court shall
31 appoint counsel for the child unless the court finds that the child
32 would not benefit from the appointment of counsel. The court shall
33 state on the record its reasons for that finding. A primary
34 responsibility of any counsel appointed to represent a child
35 pursuant to this section shall be to advocate for the protection,
36 safety, and physical and emotional well-being of the child. Counsel
37 for the child may be a district attorney, public defender, or other
38 member of the bar, provided that the counsel does not represent
39 another party or county agency whose interests conflict with the
40 child's interests. The fact that the district attorney represents the

1 child in a proceeding pursuant to Section 300 as well as conducts
2 a criminal investigation or files a criminal complaint or information
3 arising from the same or reasonably related set of facts as the
4 proceeding pursuant to Section 300 is not in and of itself a conflict
5 of interest. The court may fix the compensation for the services
6 of appointed counsel. The appointed counsel shall have a caseload
7 and training that ensures adequate representation of the child. The
8 Judicial Council shall promulgate rules of court that establish
9 caseload standards, training requirements, and guidelines for
10 appointed counsel for children and shall adopt rules as required
11 by Section 326.5 no later than July 1, 2001.

12 (d) The counsel appointed by the court shall represent the parent,
13 guardian, or child at the detention hearing and at all subsequent
14 proceedings before the juvenile court. Counsel shall continue to
15 represent the parent, guardian, or child unless relieved by the court
16 upon the substitution of other counsel or for cause. The
17 representation shall include representing the parent, guardian, or
18 the child in termination proceedings and in those proceedings
19 relating to the institution or setting aside of a legal guardianship.
20 On and after January 1, 2012, in the case of a nonminor dependent,
21 as described in subdivision (v) of Section 11400, no representation
22 by counsel shall be provided for a parent.

23 (e) The counsel for the child shall be charged in general with
24 the representation of the child's interests. To that end, the counsel
25 shall make or cause to have made any further investigations that
26 he or she deems in good faith to be reasonably necessary to
27 ascertain the facts, including the interviewing of witnesses, and
28 he or she shall examine and cross-examine witnesses in both the
29 adjudicatory and dispositional hearings. He or she may also
30 introduce and examine his or her own witnesses, make
31 recommendations to the court concerning the child's welfare, and
32 participate further in the proceedings to the degree necessary to
33 adequately represent the child. In any case in which the child is
34 four years of age or older, counsel shall interview the child to
35 determine the child's wishes and to assess the child's well-being,
36 and shall advise the court of the child's wishes. Counsel for the
37 child shall not advocate for the return of the child if, to the best of
38 his or her knowledge, that return conflicts with the protection and
39 safety of the child. In addition counsel shall investigate the interests
40 of the child beyond the scope of the juvenile proceeding and report

1 to the court other interests of the child that may need to be
2 protected by the institution of other administrative or judicial
3 proceedings. The attorney representing a child in a dependency
4 proceeding is not required to assume the responsibilities of a social
5 worker and is not expected to provide nonlegal services to the
6 child. The court shall take whatever appropriate action is necessary
7 to fully protect the interests of the child.

8 (f) Either the child or the counsel for the child, with the informed
9 consent of the child if the child is found by the court to be of
10 sufficient age and maturity to so consent, which shall be presumed,
11 subject to rebuttal by clear and convincing evidence, if the child
12 is over 12 years of age, may invoke the psychotherapist-client
13 privilege, physician-patient privilege, and clergyman-penitent
14 privilege; and if the child invokes the privilege, counsel may not
15 waive it, but if counsel invokes the privilege, the child may waive
16 it. Counsel shall be holder of these privileges if the child is found
17 by the court not to be of sufficient age and maturity to so consent.
18 For the sole purpose of fulfilling his or her obligation to provide
19 legal representation of the child, counsel for a child shall have
20 access to all records with regard to the child maintained by a health
21 care facility, as defined in Section 1545 of the Penal Code, health
22 care providers, as defined in Section 6146 of the Business and
23 Professions Code, a physician and surgeon or other health
24 practitioner, as defined in former Section 11165.8 of the Penal
25 Code, as that section read on January 1, 2000, or a child care
26 custodian, as defined in former Section 11165.7 of the Penal Code,
27 as that section read on January 1, 2000. Notwithstanding any other
28 law, counsel shall be given access to all records relevant to the
29 case which are maintained by state or local public agencies. All
30 information requested from a child protective agency regarding a
31 child who is in protective custody, or from a child's guardian ad
32 litem, shall be provided to the child's counsel within 30 days of
33 the request.

34 (g) In a county of the third class, if counsel is to be provided to
35 a child at county expense other than by counsel for the agency,
36 the court shall first utilize the services of the public defender prior
37 to appointing private counsel, to provide legal counsel. Nothing
38 in this subdivision shall be construed to require the appointment
39 of the public defender in any case in which the public defender
40 has a conflict of interest. In the interest of justice, a court may

1 depart from that portion of the procedure requiring appointment
2 of the public defender after making a finding of good cause and
3 stating the reasons therefor on the record.

4 (h) In a county of the third class, if counsel is to be appointed
5 for a parent or guardian at county expense, the court shall first
6 utilize the services of the alternate public defender, prior to
7 appointing private counsel, to provide legal counsel. Nothing in
8 this subdivision shall be construed to require the appointment of
9 the alternate public defender in any case in which the public
10 defender has a conflict of interest. In the interest of justice, a court
11 may depart from that portion of the procedure requiring
12 appointment of the alternate public defender after making a finding
13 of good cause and stating the reasons therefor on the record.

14 SEC. 9. Section 358.1 of the Welfare and Institutions Code,
15 as amended by Section 4 of Chapter 287 of the Statutes of 2009,
16 is amended to read:

17 358.1. Each social study or evaluation made by a social worker
18 or child advocate appointed by the court, required to be received
19 in evidence pursuant to Section 358, shall include, but not be
20 limited to, a factual discussion of each of the following subjects:

21 (a) Whether the county welfare department or social worker has
22 considered child protective services, as defined in Chapter 5
23 (commencing with Section 16500) of Part 4 of Division 9, as a
24 possible solution to the problems at hand, and has offered these
25 services to qualified parents if appropriate under the circumstances.

26 (b) What plan, if any, for return of the child to his or her parents
27 and for achieving legal permanence for the child if efforts to reunify
28 fail, is recommended to the court by the county welfare department
29 or probation officer.

30 (c) Whether the best interests of the child will be served by
31 granting reasonable visitation rights with the child to his or her
32 grandparents, in order to maintain and strengthen the child's family
33 relationships.

34 (d) (1) Whether the child has siblings under the court's
35 jurisdiction, and, if any siblings exist, all of the following:

36 (A) The nature of the relationship between the child and his or
37 her siblings.

38 (B) The appropriateness of developing or maintaining the sibling
39 relationships pursuant to Section 16002.

1 (C) If the siblings are not placed together in the same home,
2 why the siblings are not placed together and what efforts are being
3 made to place the siblings together, or why those efforts are not
4 appropriate.

5 (D) If the siblings are not placed together, the frequency and
6 nature of the visits between siblings.

7 (E) The impact of the sibling relationships on the child's
8 placement and planning for legal permanence.

9 (2) The factual discussion shall include a discussion of indicators
10 of the nature of the child's sibling relationships, including, but not
11 limited to, whether the siblings were raised together in the same
12 home, whether the siblings have shared significant common
13 experiences or have existing close and strong bonds, whether either
14 sibling expresses a desire to visit or live with his or her sibling, as
15 applicable, and whether ongoing contact is in the child's best
16 emotional interest.

17 (e) If the parent or guardian is unwilling or unable to participate
18 in making an educational decision for his or her child, or if other
19 circumstances exist that compromise the ability of the parent or
20 guardian to make educational decisions for the child, the county
21 welfare department or social worker shall consider whether the
22 right of the parent or guardian to make educational decisions for
23 the child should be limited. If the study or evaluation makes that
24 recommendation, it shall identify whether there is a responsible
25 adult available to make educational decisions for the child pursuant
26 to Section 361.

27 (f) Whether the child appears to be a person who is eligible to
28 be considered for further court action to free the child from parental
29 custody and control.

30 (g) Whether the parent has been advised of his or her option to
31 participate in adoption planning, including the option to enter into
32 a postadoption contact agreement as described in Section 8714.7
33 of the Family Code, and to voluntarily relinquish the child for
34 adoption if an adoption agency is willing to accept the
35 relinquishment.

36 (h) The appropriateness of any relative placement pursuant to
37 Section 361.3. However, this consideration may not be cause for
38 continuance of the dispositional hearing.

39 (i) Whether the caregiver desires, and is willing, to provide legal
40 permanency for the child if reunification is unsuccessful.

1 (j) For an Indian child, in consultation with the Indian child's
2 tribe, whether tribal customary adoption is an appropriate
3 permanent plan for the child if reunification is unsuccessful.

4 (k) On and after the date that the director executes a declaration
5 pursuant to Section 11217, whether the child has been placed in
6 an approved relative's home under a voluntary placement
7 agreement for a period not to exceed 180 days, the parent or
8 guardian is not interested in additional family maintenance or
9 family reunification services, and the relative desires and is willing
10 to be appointed the child's legal guardian.

11 (l) This section shall remain in effect only until January 1, 2014,
12 and as of that date is repealed, unless a later enacted statute, that
13 is enacted before January 1, 2014, deletes or extends that date.

14 SEC. 10. Section 358.1 of the Welfare and Institutions Code,
15 as added by Section 5 of Chapter 287 of the Statutes of 2009, is
16 amended to read:

17 358.1. Each social study or evaluation made by a social worker
18 or child advocate appointed by the court, required to be received
19 in evidence pursuant to Section 358, shall include, but not be
20 limited to, a factual discussion of each of the following subjects:

21 (a) Whether the county welfare department or social worker has
22 considered child protective services, as defined in Chapter 5
23 (commencing with Section 16500) of Part 4 of Division 9, as a
24 possible solution to the problems at hand, and has offered these
25 services to qualified parents if appropriate under the circumstances.

26 (b) What plan, if any, for return of the child to his or her parents
27 and for achieving legal permanence for the child if efforts to reunify
28 fail, is recommended to the court by the county welfare department
29 or probation officer.

30 (c) Whether the best interests of the child will be served by
31 granting reasonable visitation rights with the child to his or her
32 grandparents, in order to maintain and strengthen the child's family
33 relationships.

34 (d) (1) Whether the child has siblings under the court's
35 jurisdiction, and, if any siblings exist, all of the following:

36 (A) The nature of the relationship between the child and his or
37 her siblings.

38 (B) The appropriateness of developing or maintaining the sibling
39 relationships pursuant to Section 16002.

1 (C) If the siblings are not placed together in the same home,
2 why the siblings are not placed together and what efforts are being
3 made to place the siblings together, or why those efforts are not
4 appropriate.

5 (D) If the siblings are not placed together, the frequency and
6 nature of the visits between siblings.

7 (E) The impact of the sibling relationships on the child's
8 placement and planning for legal permanence.

9 (2) The factual discussion shall include a discussion of indicators
10 of the nature of the child's sibling relationships, including, but not
11 limited to, whether the siblings were raised together in the same
12 home, whether the siblings have shared significant common
13 experiences or have existing close and strong bonds, whether either
14 sibling expresses a desire to visit or live with his or her sibling, as
15 applicable, and whether ongoing contact is in the child's best
16 emotional interest.

17 (e) If the parent or guardian is unwilling or unable to participate
18 in making an educational decision for his or her child, or if other
19 circumstances exist that compromise the ability of the parent or
20 guardian to make educational decisions for the child, the county
21 welfare department or social worker shall consider whether the
22 right of the parent or guardian to make educational decisions for
23 the child should be limited. If the study or evaluation makes that
24 recommendation, it shall identify whether there is a responsible
25 adult available to make educational decisions for the child pursuant
26 to Section 361.

27 (f) Whether the child appears to be a person who is eligible to
28 be considered for further court action to free the child from parental
29 custody and control.

30 (g) Whether the parent has been advised of his or her option to
31 participate in adoption planning, including the option to enter into
32 a postadoption contact agreement as described in Section 8714.7
33 of the Family Code, and to voluntarily relinquish the child for
34 adoption if an adoption agency is willing to accept the
35 relinquishment.

36 (h) The appropriateness of any relative placement pursuant to
37 Section 361.3. However, this consideration may not be cause for
38 continuance of the dispositional hearing.

39 (i) Whether the caregiver desires, and is willing, to provide legal
40 permanency for the child if reunification is unsuccessful.

1 (j) For an Indian child, in consultation with the Indian child's
2 tribe, whether tribal customary adoption is an appropriate
3 permanent plan for the child if reunification is unsuccessful.

4 (k) On and after the date that the director executes a declaration
5 pursuant to Section 11217, whether the child has been placed in
6 an approved relative's home under a voluntary placement
7 agreement for a period not to exceed 180 days, the parent or
8 guardian is not interested in additional family maintenance or
9 family reunification services, and the relative desires and is willing
10 to be appointed the child's legal guardian.

11 (l) This section shall become operative on January 1, 2014.

12 SEC. 11. Section 360 of the Welfare and Institutions Code is
13 amended to read:

14 360. After receiving and considering the evidence on the proper
15 disposition of the case, the juvenile court may enter judgment as
16 follows:

17 (a) Notwithstanding any other provision of law, if the court
18 finds that the child is a person described by Section 300 and the
19 parent has advised the court that the parent is not interested in
20 family maintenance or family reunification services, it may, in
21 addition to or in lieu of adjudicating the child a dependent child
22 of the court, order a legal guardianship, appoint a legal guardian,
23 and issue letters of guardianship, if the court determines that a
24 guardianship is in the best interest of the child, provided the parent
25 and the child agree to the guardianship, unless the child's age or
26 physical, emotional, or mental condition prevents the child's
27 meaningful response. The court shall advise the parent and the
28 child that no reunification services will be provided as a result of
29 the establishment of a guardianship. The proceeding for the
30 appointment of a guardian shall be in the juvenile court.

31 Any application for termination of guardianship shall be filed
32 in juvenile court in a form as may be developed by the Judicial
33 Council pursuant to Section 68511 of the Government Code.
34 Sections 366.4 and 388 shall apply to this order of guardianship.

35 No person shall be appointed a legal guardian under this section
36 until an assessment as specified in subdivision (g) of Section 361.5
37 is read and considered by the court and reflected in the minutes of
38 the court.

39 On and after the date that the director executes a declaration
40 pursuant to Section 11217, if the court appoints an approved

1 relative caregiver as the child's legal guardian, the child has been
2 in the care of that relative for a period of six consecutive months
3 under a voluntary placement agreement, and the child otherwise
4 meets the conditions for federal financial participation, the child
5 shall be eligible for aid under the Kin-GAP Program as provided
6 in Article 4.7 (commencing with Section 11385) of Chapter 2.

7 The person responsible for preparing the assessment may be
8 called and examined by any party to the guardianship proceeding.

9 (b) If the court finds that the child is a person described by
10 Section 300, it may, without adjudicating the child a dependent
11 child of the court, order that services be provided to keep the family
12 together and place the child and the child's parent or guardian
13 under the supervision of the social worker for a time period
14 consistent with Section 301.

15 (c) If the family subsequently is unable or unwilling to cooperate
16 with the services being provided, the social worker may file a
17 petition with the juvenile court pursuant to Section 332 alleging
18 that a previous petition has been sustained and that disposition
19 pursuant to subdivision (b) has been ineffective in ameliorating
20 the situation requiring the child welfare services. Upon hearing
21 the petition, the court shall order either that the petition shall be
22 dismissed or that a new disposition hearing shall be held pursuant
23 to subdivision (d).

24 (d) If the court finds that the child is a person described by
25 Section 300, it may order and adjudge the child to be a dependent
26 child of the court.

27 SEC. 12. Section 361.45 of the Welfare and Institutions Code
28 is amended to read:

29 361.45. (a) Notwithstanding any other provision of law, when
30 the sudden unavailability of a foster caregiver requires a change
31 in placement on an emergency basis for a child who is under the
32 jurisdiction of the juvenile court pursuant to Section 300, if an able
33 and willing relative, as defined in Section 319, or an able and
34 willing nonrelative extended family member, as defined in Section
35 362.7, is available and requests temporary placement of the child
36 pending resolution of the emergency situation, the county welfare
37 department shall initiate an assessment of the relative's or
38 nonrelative extended family member's suitability, which shall
39 include an in-home inspection to assess the safety of the home and
40 the ability of the relative or nonrelative extended family member

1 to care for the child's needs, and a consideration of the results of
2 a criminal records check conducted pursuant to Section 16504.5
3 and a check of allegations of prior child abuse or neglect
4 concerning the relative or nonrelative extended family member
5 and other adults in the home. Upon completion of this assessment,
6 the child may be placed in the assessed home. For purposes of this
7 paragraph, and except for the criminal records check conducted
8 pursuant to Section 16504.5, the standards used to determine
9 suitability shall be the same standards set forth in the regulations
10 for the licensing of foster family homes.

11 (b) Immediately following the placement of a child in the home
12 of a relative or a nonrelative extended family member, the county
13 welfare department shall evaluate and approve or deny the home
14 for purposes of AFDC-FC eligibility pursuant to Section 11402.
15 The standards used to evaluate and grant or deny approval of the
16 home of the relative and of the home of a nonrelative extended
17 family member, as described in Section 362.7, shall be the same
18 standards set forth in regulations for the licensing of foster family
19 homes which prescribe standards of safety and sanitation for the
20 physical plant and standards for basic personal care, supervision,
21 and services provided by the caregiver.

22 (c) If a relative or nonrelative extended family member, and
23 other adults in the home, as indicated, meets all other conditions
24 for approval, except for the receipt of the Federal Bureau of
25 Investigation's criminal history information for the relative or
26 nonrelative extended family member, the county welfare
27 department may approve the home and document that approval,
28 if the relative or nonrelative extended family member, and each
29 adult in the home, has signed and submitted a statement that he or
30 she has never been convicted of a crime in the United States, other
31 than a traffic infraction as defined in paragraph (1) of subdivision
32 (a) of Section 42001 of the Vehicle Code. If, after the approval
33 has been granted, the department determines that the relative or
34 nonrelative extended family member or other adult in the home
35 has a criminal record, the approval may be terminated.

36 (d) On and after January 1, 2012, if a nonminor dependent, as
37 defined in subdivision (v) of Section 11400, is placed in the home
38 of a relative or nonrelative extended family member, the home
39 shall be approved using the same standards set forth in regulations
40 as described in Section 1502.7 of the Health and Safety Code.

1 SEC. 13. Section 361.5 of the Welfare and Institutions Code,
2 as amended by Section 6 of Chapter 287 of the Statutes of 2009,
3 is amended to read:

4 361.5. (a) Except as provided in subdivision (b), or when the
5 parent has voluntarily relinquished the child and the relinquishment
6 has been filed with the State Department of Social Services, or
7 upon the establishment of an order of guardianship pursuant to
8 Section 360, whenever a child is removed from a parent's or
9 guardian's custody, the juvenile court shall order the social worker
10 to provide child welfare services to the child and the child's mother
11 and statutorily presumed father or guardians. Upon a finding and
12 declaration of paternity by the juvenile court or proof of a prior
13 declaration of paternity by any court of competent jurisdiction, the
14 juvenile court may order services for the child and the biological
15 father, if the court determines that the services will benefit the
16 child.

17 (1) Family reunification services, when provided, shall be
18 provided as follows:

19 (A) Except as otherwise provided in subparagraph (C), for a
20 child who, on the date of initial removal from the physical custody
21 of his or her parent or guardian, was three years of age or older,
22 court-ordered services shall be provided beginning with the
23 dispositional hearing and ending 12 months after the date the child
24 entered foster care as defined in Section 361.49, unless the child
25 is returned to the home of the parent or guardian.

26 (B) For a child who, on the date of initial removal from the
27 physical custody of his or her parent or guardian, was under three
28 years of age, court-ordered services shall be provided for a period
29 of six months from the dispositional hearing as provided in
30 subdivision (e) of Section 366.21, but no longer than 12 months
31 from the date the child entered foster care as defined in Section
32 361.49 unless the child is returned to the home of the parent or
33 guardian.

34 (C) For the purpose of placing and maintaining a sibling group
35 together in a permanent home should reunification efforts fail, for
36 a child in a sibling group whose members were removed from
37 parental custody at the same time, and in which one member of
38 the sibling group was under three years of age on the date of initial
39 removal from the physical custody of his or her parent or guardian,
40 court-ordered services for some or all of the sibling group may be

1 limited as set forth in subparagraph (B). For the purposes of this
2 paragraph, “a sibling group” shall mean two or more children who
3 are related to each other as full or half siblings.

4 (2) Any motion to terminate court-ordered reunification services
5 prior to the hearing set pursuant to subdivision (f) of Section 366.21
6 for a child described by subparagraph (A) of paragraph (1), or
7 prior to the hearing set pursuant to subdivision (e) of Section
8 366.21 for a child described by subparagraph (B) or (C) of
9 paragraph (1), shall be made pursuant to the requirements set forth
10 in subdivision (c) of Section 388. A motion to terminate
11 court-ordered reunification services shall not be required at the
12 hearing set pursuant to subdivision (e) of Section 366.21 if the
13 court finds by clear and convincing evidence one of the following:

14 (A) That the child was removed initially under subdivision (g)
15 of Section 300 and the whereabouts of the parent are still unknown.

16 (B) That the parent has failed to contact and visit the child.

17 (C) That the parent has been convicted of a felony indicating
18 parental unfitness.

19 (3) Notwithstanding subparagraphs (A), (B), and (C) of
20 paragraph (1), court-ordered services may be extended up to a
21 maximum time period not to exceed 18 months after the date the
22 child was originally removed from physical custody of his or her
23 parent or guardian if it can be shown, at the hearing held pursuant
24 to subdivision (f) of Section 366.21, that the permanent plan for
25 the child is that he or she will be returned and safely maintained
26 in the home within the extended time period. The court shall extend
27 the time period only if it finds that there is a substantial probability
28 that the child will be returned to the physical custody of his or her
29 parent or guardian within the extended time period or that
30 reasonable services have not been provided to the parent or
31 guardian. In determining whether court-ordered services may be
32 extended, the court shall consider the special circumstances of an
33 incarcerated or institutionalized parent or parents, or parent or
34 parents court-ordered to a residential substance abuse treatment
35 program, including, but not limited to, barriers to the parent’s or
36 guardian’s access to services and ability to maintain contact with
37 his or her child. The court shall also consider, among other factors,
38 good faith efforts that the parent or guardian has made to maintain
39 contact with the child. If the court extends the time period, the
40 court shall specify the factual basis for its conclusion that there is

1 a substantial probability that the child will be returned to the
2 physical custody of his or her parent or guardian within the
3 extended time period. The court also shall make findings pursuant
4 to subdivision (a) of Section 366 and subdivision (e) of Section
5 358.1.

6 When counseling or other treatment services are ordered, the
7 parent or guardian shall be ordered to participate in those services,
8 unless the parent's or guardian's participation is deemed by the
9 court to be inappropriate or potentially detrimental to the child, or
10 unless a parent or guardian is incarcerated and the corrections
11 facility in which he or she is incarcerated does not provide access
12 to the treatment services ordered by the court. Physical custody of
13 the child by the parents or guardians during the applicable time
14 period under subparagraph (A), (B), or (C) of paragraph (1) shall
15 not serve to interrupt the running of the period. If at the end of the
16 applicable time period, a child cannot be safely returned to the
17 care and custody of a parent or guardian without court supervision,
18 but the child clearly desires contact with the parent or guardian,
19 the court shall take the child's desire into account in devising a
20 permanency plan.

21 In cases where the child was under three years of age on the date
22 of the initial removal from the physical custody of his or her parent
23 or guardian or is a member of a sibling group as described in
24 subparagraph (C) of paragraph (1), the court shall inform the parent
25 or guardian that the failure of the parent or guardian to participate
26 regularly in any court-ordered treatment programs or to cooperate
27 or avail himself or herself of services provided as part of the child
28 welfare services case plan may result in a termination of efforts
29 to reunify the family after six months. The court shall inform the
30 parent or guardian of the factors used in subdivision (e) of Section
31 366.21 to determine whether to limit services to six months for
32 some or all members of a sibling group as described in
33 subparagraph (C) of paragraph (1).

34 (4) Notwithstanding paragraph (3), court-ordered services may
35 be extended up to a maximum time period not to exceed 24 months
36 after the date the child was originally removed from physical
37 custody of his or her parent or guardian if it is shown, at the hearing
38 held pursuant to subdivision (b) of Section 366.22, that the
39 permanent plan for the child is that he or she will be returned and
40 safely maintained in the home within the extended time period.

1 The court shall extend the time period only if it finds that it is in
2 the child's best interest to have the time period extended and that
3 there is a substantial probability that the child will be returned to
4 the physical custody of his or her parent or guardian who is
5 described in subdivision (b) of Section 366.22 within the extended
6 time period, or that reasonable services have not been provided to
7 the parent or guardian. If the court extends the time period, the
8 court shall specify the factual basis for its conclusion that there is
9 a substantial probability that the child will be returned to the
10 physical custody of his or her parent or guardian within the
11 extended time period. The court also shall make findings pursuant
12 to subdivision (a) of Section 366 and subdivision (e) of Section
13 358.1.

14 When counseling or other treatment services are ordered, the
15 parent or guardian shall be ordered to participate in those services,
16 in order for substantial probability to be found. Physical custody
17 of the child by the parents or guardians during the applicable time
18 period under subparagraph (A), (B), or (C) of paragraph (1) shall
19 not serve to interrupt the running of the period. If at the end of the
20 applicable time period, the child cannot be safely returned to the
21 care and custody of a parent or guardian without court supervision,
22 but the child clearly desires contact with the parent or guardian,
23 the court shall take the child's desire into account in devising a
24 permanency plan.

25 Except in cases where, pursuant to subdivision (b), the court
26 does not order reunification services, the court shall inform the
27 parent or parents of Section 366.26 and shall specify that the
28 parent's or parents' parental rights may be terminated.

29 (b) Reunification services need not be provided to a parent or
30 guardian described in this subdivision when the court finds, by
31 clear and convincing evidence, any of the following:

32 (1) That the whereabouts of the parent or guardian is unknown.
33 A finding pursuant to this paragraph shall be supported by an
34 affidavit or by proof that a reasonably diligent search has failed
35 to locate the parent or guardian. The posting or publication of
36 notices is not required in that search.

37 (2) That the parent or guardian is suffering from a mental
38 disability that is described in Chapter 2 (commencing with Section
39 7820) of Part 4 of Division 12 of the Family Code and that renders
40 him or her incapable of utilizing those services.

(3) That the child or a sibling of the child has been previously adjudicated a dependent pursuant to any subdivision of Section 300 as a result of physical or sexual abuse, that following that adjudication the child had been removed from the custody of his or her parent or guardian pursuant to Section 361, that the child has been returned to the custody of the parent or guardian from whom the child had been taken originally, and that the child is being removed pursuant to Section 361, due to additional physical or sexual abuse.

(4) That the parent or guardian of the child has caused the death of another child through abuse or neglect.

(5) That the child was brought within the jurisdiction of the court under subdivision (e) of Section 300 because of the conduct of that parent or guardian.

(6) That the child has been adjudicated a dependent pursuant to any subdivision of Section 300 as a result of severe sexual abuse or the infliction of severe physical harm to the child, a sibling, or a half sibling by a parent or guardian, as defined in this subdivision, and the court makes a factual finding that it would not benefit the child to pursue reunification services with the offending parent or guardian.

A finding of severe sexual abuse, for the purposes of this subdivision, may be based on, but is not limited to, sexual intercourse, or stimulation involving genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between the parent or guardian and the child or a sibling or half sibling of the child, or between the child or a sibling or half sibling of the child and another person or animal with the actual or implied consent of the parent or guardian; or the penetration or manipulation of the child's, sibling's, or half sibling's genital organs or rectum by any animate or inanimate object for the sexual gratification of the parent or guardian, or for the sexual gratification of another person with the actual or implied consent of the parent or guardian.

A finding of the infliction of severe physical harm, for the purposes of this subdivision, may be based on, but is not limited to, deliberate and serious injury inflicted to or on a child's body or the body of a sibling or half sibling of the child by an act or omission of the parent or guardian, or of another individual or animal with the consent of the parent or guardian; deliberate and torturous confinement of the child, sibling, or half sibling in a

1 closed space; or any other torturous act or omission that would be
2 reasonably understood to cause serious emotional damage.

3 (7) That the parent is not receiving reunification services for a
4 sibling or a half sibling of the child pursuant to paragraph (3), (5),
5 or (6).

6 (8) That the child was conceived by means of the commission
7 of an offense listed in Section 288 or 288.5 of the Penal Code, or
8 by an act committed outside of this state that, if committed in this
9 state, would constitute one of those offenses. This paragraph only
10 applies to the parent who committed the offense or act.

11 (9) That the child has been found to be a child described in
12 subdivision (g) of Section 300, that the parent or guardian of the
13 child willfully abandoned the child, and the court finds that the
14 abandonment itself constituted a serious danger to the child; or
15 that the parent or other person having custody of the child
16 voluntarily surrendered physical custody of the child pursuant to
17 Section 1255.7 of the Health and Safety Code. For the purposes
18 of this paragraph, “serious danger” means that without the
19 intervention of another person or agency, the child would have
20 sustained severe or permanent disability, injury, illness, or death.
21 For purposes of this paragraph, “willful abandonment” shall not
22 be construed as actions taken in good faith by the parent without
23 the intent of placing the child in serious danger.

24 (10) That the court ordered termination of reunification services
25 for any siblings or half siblings of the child because the parent or
26 guardian failed to reunify with the sibling or half sibling after the
27 sibling or half sibling had been removed from that parent or
28 guardian pursuant to Section 361 and that parent or guardian is
29 the same parent or guardian described in subdivision (a) and that,
30 according to the findings of the court, this parent or guardian has
31 not subsequently made a reasonable effort to treat the problems
32 that led to removal of the sibling or half sibling of that child from
33 that parent or guardian.

34 (11) That the parental rights of a parent over any sibling or half
35 sibling of the child had been permanently severed, and this parent
36 is the same parent described in subdivision (a), and that, according
37 to the findings of the court, this parent has not subsequently made
38 a reasonable effort to treat the problems that led to removal of the
39 sibling or half sibling of that child from the parent.

1 (12) That the parent or guardian of the child has been convicted
2 of a violent felony, as defined in subdivision (c) of Section 667.5
3 of the Penal Code.

4 (13) That the parent or guardian of the child has a history of
5 extensive, abusive, and chronic use of drugs or alcohol and has
6 resisted prior court-ordered treatment for this problem during a
7 three-year period immediately prior to the filing of the petition
8 that brought that child to the court's attention, or has failed or
9 refused to comply with a program of drug or alcohol treatment
10 described in the case plan required by Section 358.1 on at least
11 two prior occasions, even though the programs identified were
12 available and accessible.

13 (14) That the parent or guardian of the child has advised the
14 court that he or she is not interested in receiving family
15 maintenance or family reunification services or having the child
16 returned to or placed in his or her custody and does not wish to
17 receive family maintenance or reunification services.

18 The parent or guardian shall be represented by counsel and shall
19 execute a waiver of services form to be adopted by the Judicial
20 Council. The court shall advise the parent or guardian of any right
21 to services and of the possible consequences of a waiver of
22 services, including the termination of parental rights and placement
23 of the child for adoption. The court shall not accept the waiver of
24 services unless it states on the record its finding that the parent or
25 guardian has knowingly and intelligently waived the right to
26 services.

27 (15) That the parent or guardian has on one or more occasions
28 willfully abducted the child or child's sibling or half sibling from
29 his or her placement and refused to disclose the child's or child's
30 sibling's or half sibling's whereabouts, refused to return physical
31 custody of the child or child's sibling or half sibling to his or her
32 placement, or refused to return physical custody of the child or
33 child's sibling or half sibling to the social worker.

34 (c) In deciding whether to order reunification in any case in
35 which this section applies, the court shall hold a dispositional
36 hearing. The social worker shall prepare a report that discusses
37 whether reunification services shall be provided. When it is alleged,
38 pursuant to paragraph (2) of subdivision (b), that the parent is
39 incapable of utilizing services due to mental disability, the court
40 shall order reunification services unless competent evidence from

1 mental health professionals establishes that, even with the provision
2 of services, the parent is unlikely to be capable of adequately caring
3 for the child within the time limits specified in subdivision (a).

4 The court shall not order reunification for a parent or guardian
5 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),
6 (13), (14), or (15) of subdivision (b) unless the court finds, by clear
7 and convincing evidence, that reunification is in the best interest
8 of the child.

9 In addition, the court shall not order reunification in any situation
10 described in paragraph (5) of subdivision (b) unless it finds that,
11 based on competent testimony, those services are likely to prevent
12 reabuse or continued neglect of the child or that failure to try
13 reunification will be detrimental to the child because the child is
14 closely and positively attached to that parent. The social worker
15 shall investigate the circumstances leading to the removal of the
16 child and advise the court whether there are circumstances that
17 indicate that reunification is likely to be successful or unsuccessful
18 and whether failure to order reunification is likely to be detrimental
19 to the child.

20 The failure of the parent to respond to previous services, the fact
21 that the child was abused while the parent was under the influence
22 of drugs or alcohol, a past history of violent behavior, or testimony
23 by a competent professional that the parent's behavior is unlikely
24 to be changed by services are among the factors indicating that
25 reunification services are unlikely to be successful. The fact that
26 a parent or guardian is no longer living with an individual who
27 severely abused the child may be considered in deciding that
28 reunification services are likely to be successful, provided that the
29 court shall consider any pattern of behavior on the part of the parent
30 that has exposed the child to repeated abuse.

31 (d) If reunification services are not ordered pursuant to
32 paragraph (1) of subdivision (b) and the whereabouts of a parent
33 become known within six months of the out-of-home placement
34 of the child, the court shall order the social worker to provide
35 family reunification services in accordance with this subdivision.

36 (e) (1) If the parent or guardian is incarcerated or
37 institutionalized, the court shall order reasonable services unless
38 the court determines, by clear and convincing evidence, those
39 services would be detrimental to the child. In determining
40 detriment, the court shall consider the age of the child, the degree

1 of parent-child bonding, the length of the sentence, the length and
2 nature of the treatment, the nature of the crime or illness, the degree
3 of detriment to the child if services are not offered and, for children
4 10 years of age or older, the child's attitude toward the
5 implementation of family reunification services, the likelihood of
6 the parent's discharge from incarceration or institutionalization
7 within the reunification time limitations described in subdivision
8 (a), and any other appropriate factors. In determining the content
9 of reasonable services, the court shall consider the particular
10 barriers to an incarcerated or otherwise institutionalized parent's
11 access to those court-mandated services and ability to maintain
12 contact with his or her child, and shall document this information
13 in the child's case plan. Reunification services are subject to the
14 applicable time limitations imposed in subdivision (a). Services
15 may include, but shall not be limited to, all of the following:

16 (A) Maintaining contact between the parent and child through
17 collect telephone calls.

18 (B) Transportation services, where appropriate.

19 (C) Visitation services, where appropriate.

20 (D) Reasonable services to extended family members or foster
21 parents providing care for the child if the services are not
22 detrimental to the child.

23 An incarcerated parent may be required to attend counseling,
24 parenting classes, or vocational training programs as part of the
25 reunification service plan if actual access to these services is
26 provided. The social worker shall document in the child's case
27 plan the particular barriers to an incarcerated or institutionalized
28 parent's access to those court-mandated services and ability to
29 maintain contact with his or her child.

30 (2) The presiding judge of the juvenile court of each county
31 may convene representatives of the county welfare department,
32 the sheriff's department, and other appropriate entities for the
33 purpose of developing and entering into protocols for ensuring the
34 notification, transportation, and presence of an incarcerated or
35 institutionalized parent at all court hearings involving proceedings
36 affecting the child pursuant to Section 2625 of the Penal Code.
37 The county welfare department shall utilize the prisoner locator
38 system developed by the Department of Corrections and
39 Rehabilitation to facilitate timely and effective notice of hearings
40 for incarcerated parents.

(3) Notwithstanding any other provision of law, if the incarcerated parent is a woman seeking to participate in the community treatment program operated by the Department of Corrections and Rehabilitation pursuant to Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal Code, the court shall determine whether the parent's participation in a program is in the child's best interest and whether it is suitable to meet the needs of the parent and child.

(f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or paragraph (1) of subdivision (e), does not order reunification services, it shall, at the dispositional hearing, that shall include a permanency hearing, determine if a hearing under Section 366.26 shall be set in order to determine whether adoption, guardianship, or long-term foster care, or in the case of an Indian child, in consultation with the child's tribe, tribal customary adoption, is the most appropriate plan for the child, and shall consider in-state and out-of-state placement options. If the court so determines, it shall conduct the hearing pursuant to Section 366.26 within 120 days after the dispositional hearing. However, the court shall not schedule a hearing so long as the other parent is being provided reunification services pursuant to subdivision (a). The court may continue to permit the parent to visit the child unless it finds that visitation would be detrimental to the child.

(g) (1) Whenever a court orders that a hearing shall be held pursuant to Section 366.26, including, when, in consultation with the child's tribe, tribal customary adoption is recommended, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include:

(A) Current search efforts for an absent parent or parents and notification of a noncustodial parent in the manner provided for in Section 291.

(B) A review of the amount of and nature of any contact between the child and his or her parents and other members of his or her extended family since the time of placement. Although the extended family of each child shall be reviewed on a case-by-case

1 basis, “extended family” for the purpose of this subparagraph shall
2 include, but not be limited to, the child’s siblings, grandparents,
3 aunts, and uncles.

4 (C) An evaluation of the child’s medical, developmental,
5 scholastic, mental, and emotional status.

6 (D) A preliminary assessment of the eligibility and commitment
7 of any identified prospective adoptive parent or guardian, including
8 a prospective tribal customary adoptive parent, particularly the
9 caretaker, to include a social history, including screening for
10 criminal records and prior referrals for child abuse or neglect, the
11 capability to meet the child’s needs, and the understanding of the
12 legal and financial rights and responsibilities of adoption and
13 guardianship. If a proposed guardian is a relative of the minor, the
14 assessment shall also consider, but need not be limited to, all of
15 the factors specified in subdivision (a) of Section 361.3 and in
16 Section 361.4. As used in this subparagraph, “relative” means an
17 adult who is related to the minor by blood, adoption, or affinity
18 within the fifth degree of kinship, including stepparents,
19 stepsiblings, and all relatives whose status is preceded by the words
20 “great,” “great-great,” or “grand,” or the spouse of any of those
21 persons even if the marriage was terminated by death or
22 dissolution.

23 (E) The relationship of the child to any identified prospective
24 adoptive parent or guardian, including a prospective tribal
25 customary parent, the duration and character of the relationship,
26 the degree of attachment of the child to the prospective relative
27 guardian or adoptive parent, the relative’s or adoptive parent’s
28 strong commitment to caring permanently for the child, the
29 motivation for seeking adoption or guardianship, a statement from
30 the child concerning placement and the adoption or guardianship,
31 and whether the child over 12 years of age has been consulted
32 about the proposed relative guardianship arrangements, unless the
33 child’s age or physical, emotional, or other condition precludes
34 his or her meaningful response, and if so, a description of the
35 condition.

36 (F) An analysis of the likelihood that the child will be adopted
37 if parental rights are terminated.

38 (G) In the case of an Indian child, in addition to subparagraphs
39 (A) to (F), inclusive, an assessment of the likelihood that the child
40 will be adopted, when, in consultation with the child’s tribe, a

1 customary tribal adoption, as defined in Section 366.24, is
2 recommended. If tribal customary adoption is recommended, the
3 assessment shall include an analysis of both of the following:

4 (i) Whether tribal customary adoption would or would not be
5 detrimental to the Indian child and the reasons for reaching that
6 conclusion.

7 (ii) Whether the Indian child cannot or should not be returned
8 to the home of the Indian parent or Indian custodian and the reasons
9 for reaching that conclusion.

10 (2) (A) A relative caregiver's preference for legal guardianship
11 over adoption, if it is due to circumstances that do not include an
12 unwillingness to accept legal or financial responsibility for the
13 child, shall not constitute the sole basis for recommending removal
14 of the child from the relative caregiver for purposes of adoptive
15 placement.

16 (B) A relative caregiver shall be given information regarding
17 the permanency options of guardianship and adoption, including
18 the long-term benefits and consequences of each option, prior to
19 establishing legal guardianship or pursuing adoption.

20 (h) If, at any hearing held pursuant to Section 366.26, a
21 guardianship is established for the minor with an approved relative
22 caregiver and juvenile court dependency is subsequently dismissed,
23 the minor shall be eligible for aid under the Kin-GAP Program as
24 provided for in Article 4.5 (commencing with Section 11360) or
25 Article 4.7 (commencing with Section 11385) of Chapter 2, as
26 applicable.

27 (i) In determining whether reunification services will benefit
28 the child pursuant to paragraph (6) or (7) of subdivision (b), the
29 court shall consider any information it deems relevant, including
30 the following factors:

31 (1) The specific act or omission comprising the severe sexual
32 abuse or the severe physical harm inflicted on the child or the
33 child's sibling or half sibling.

34 (2) The circumstances under which the abuse or harm was
35 inflicted on the child or the child's sibling or half sibling.

36 (3) The severity of the emotional trauma suffered by the child
37 or the child's sibling or half sibling.

38 (4) Any history of abuse of other children by the offending
39 parent or guardian.

1 (5) The likelihood that the child may be safely returned to the
2 care of the offending parent or guardian within 12 months with no
3 continuing supervision.

4 (6) Whether or not the child desires to be reunified with the
5 offending parent or guardian.

6 (j) The court shall read into the record the basis for a finding of
7 severe sexual abuse or the infliction of severe physical harm under
8 paragraph (6) of subdivision (b), and shall also specify the factual
9 findings used to determine that the provision of reunification
10 services to the offending parent or guardian would not benefit the
11 child.

12 (k) This section shall remain in effect only until January 1, 2014,
13 and as of that date is repealed, unless a later enacted statute, that
14 is enacted before January 1, 2014, deletes or extends that date.

15 SEC. 14. Section 361.5 of the Welfare and Institutions Code,
16 as added by Section 7 of Chapter 287 of the Statutes of 2009, is
17 amended to read:

18 361.5. (a) Except as provided in subdivision (b), or when the
19 parent has voluntarily relinquished the child and the relinquishment
20 has been filed with the State Department of Social Services, or
21 upon the establishment of an order of guardianship pursuant to
22 Section 360, whenever a child is removed from a parent's or
23 guardian's custody, the juvenile court shall order the social worker
24 to provide child welfare services to the child and the child's mother
25 and statutorily presumed father or guardians. Upon a finding and
26 declaration of paternity by the juvenile court or proof of a prior
27 declaration of paternity by any court of competent jurisdiction, the
28 juvenile court may order services for the child and the biological
29 father, if the court determines that the services will benefit the
30 child.

31 (1) Family reunification services, when provided, shall be
32 provided as follows:

33 (A) Except as otherwise provided in subparagraph (C), for a
34 child who, on the date of initial removal from the physical custody
35 of his or her parent or guardian, was three years of age or older,
36 court-ordered services shall be provided beginning with the
37 dispositional hearing and ending 12 months after the date the child
38 entered foster care as defined in Section 361.49, unless the child
39 is returned to the home of the parent or guardian.

1 (B) For a child who, on the date of initial removal from the
2 physical custody of his or her parent or guardian, was under three
3 years of age, court-ordered services shall be provided for a period
4 of six months from the dispositional hearing as provided in
5 subdivision (e) of Section 366.21, but no longer than 12 months
6 from the date the child entered foster care as defined in Section
7 361.49 unless the child is returned to the home of the parent or
8 guardian.

9 (C) For the purpose of placing and maintaining a sibling group
10 together in a permanent home should reunification efforts fail, for
11 a child in a sibling group whose members were removed from
12 parental custody at the same time, and in which one member of
13 the sibling group was under three years of age on the date of initial
14 removal from the physical custody of his or her parent or guardian,
15 court-ordered services for some or all of the sibling group may be
16 limited as set forth in subparagraph (B). For the purposes of this
17 paragraph, “a sibling group” shall mean two or more children who
18 are related to each other as full or half siblings.

19 (2) Any motion to terminate court-ordered reunification services
20 prior to the hearing set pursuant to subdivision (f) of Section 366.21
21 for a child described by subparagraph (A) of paragraph (1), or
22 prior to the hearing set pursuant to subdivision (e) of Section
23 366.21 for a child described by subparagraph (B) or (C) of
24 paragraph (1), shall be made pursuant to the requirements set forth
25 in subdivision (c) of Section 388. A motion to terminate
26 court-ordered reunification services shall not be required at the
27 hearing set pursuant to subdivision (e) of Section 366.21 if the
28 court finds by clear and convincing evidence one of the following:

29 (A) That the child was removed initially under subdivision (g)
30 of Section 300 and the whereabouts of the parent are still unknown.

31 (B) That the parent has failed to contact and visit the child.

32 (C) That the parent has been convicted of a felony indicating
33 parental unfitness.

34 (3) Notwithstanding subparagraphs (A), (B), and (C) of
35 paragraph (1), court-ordered services may be extended up to a
36 maximum time period not to exceed 18 months after the date the
37 child was originally removed from physical custody of his or her
38 parent or guardian if it can be shown, at the hearing held pursuant
39 to subdivision (f) of Section 366.21, that the permanent plan for
40 the child is that he or she will be returned and safely maintained

1 in the home within the extended time period. The court shall extend
2 the time period only if it finds that there is a substantial probability
3 that the child will be returned to the physical custody of his or her
4 parent or guardian within the extended time period or that
5 reasonable services have not been provided to the parent or
6 guardian. In determining whether court-ordered services may be
7 extended, the court shall consider the special circumstances of an
8 incarcerated or institutionalized parent or parents, or parent or
9 parents court-ordered to a residential substance abuse treatment
10 program, including, but not limited to, barriers to the parent's or
11 guardian's access to services and ability to maintain contact with
12 his or her child. The court shall also consider, among other factors,
13 good faith efforts that the parent or guardian has made to maintain
14 contact with the child. If the court extends the time period, the
15 court shall specify the factual basis for its conclusion that there is
16 a substantial probability that the child will be returned to the
17 physical custody of his or her parent or guardian within the
18 extended time period. The court also shall make findings pursuant
19 to subdivision (a) of Section 366 and subdivision (e) of Section
20 358.1.

21 When counseling or other treatment services are ordered, the
22 parent or guardian shall be ordered to participate in those services,
23 unless the parent's or guardian's participation is deemed by the
24 court to be inappropriate or potentially detrimental to the child, or
25 unless a parent or guardian is incarcerated and the corrections
26 facility in which he or she is incarcerated does not provide access
27 to the treatment services ordered by the court. Physical custody of
28 the child by the parents or guardians during the applicable time
29 period under subparagraph (A), (B), or (C) of paragraph (1) shall
30 not serve to interrupt the running of the period. If at the end of the
31 applicable time period, a child cannot be safely returned to the
32 care and custody of a parent or guardian without court supervision,
33 but the child clearly desires contact with the parent or guardian,
34 the court shall take the child's desire into account in devising a
35 permanency plan.

36 In cases where the child was under three years of age on the date
37 of the initial removal from the physical custody of his or her parent
38 or guardian or is a member of a sibling group as described in
39 subparagraph (C) of paragraph (1), the court shall inform the parent
40 or guardian that the failure of the parent or guardian to participate

1 regularly in any court-ordered treatment programs or to cooperate
2 or avail himself or herself of services provided as part of the child
3 welfare services case plan may result in a termination of efforts
4 to reunify the family after six months. The court shall inform the
5 parent or guardian of the factors used in subdivision (e) of Section
6 366.21 to determine whether to limit services to six months for
7 some or all members of a sibling group as described in
8 subparagraph (C) of paragraph (1).

9 (4) Notwithstanding paragraph (3), court-ordered services may
10 be extended up to a maximum time period not to exceed 24 months
11 after the date the child was originally removed from physical
12 custody of his or her parent or guardian if it is shown, at the hearing
13 held pursuant to subdivision (b) of Section 366.22, that the
14 permanent plan for the child is that he or she will be returned and
15 safely maintained in the home within the extended time period.
16 The court shall extend the time period only if it finds that it is in
17 the child's best interest to have the time period extended and that
18 there is a substantial probability that the child will be returned to
19 the physical custody of his or her parent or guardian who is
20 described in subdivision (b) of Section 366.22 within the extended
21 time period, or that reasonable services have not been provided to
22 the parent or guardian. If the court extends the time period, the
23 court shall specify the factual basis for its conclusion that there is
24 a substantial probability that the child will be returned to the
25 physical custody of his or her parent or guardian within the
26 extended time period. The court also shall make findings pursuant
27 to subdivision (a) of Section 366 and subdivision (e) of Section
28 358.1.

29 When counseling or other treatment services are ordered, the
30 parent or guardian shall be ordered to participate in those services,
31 in order for substantial probability to be found. Physical custody
32 of the child by the parents or guardians during the applicable time
33 period under subparagraph (A), (B), or (C) of paragraph (1) shall
34 not serve to interrupt the running of the period. If at the end of the
35 applicable time period, the child cannot be safely returned to the
36 care and custody of a parent or guardian without court supervision,
37 but the child clearly desires contact with the parent or guardian,
38 the court shall take the child's desire into account in devising a
39 permanency plan.

1 Except in cases where, pursuant to subdivision (b), the court
2 does not order reunification services, the court shall inform the
3 parent or parents of Section 366.26 and shall specify that the
4 parent's or parents' parental rights may be terminated.

5 (b) Reunification services need not be provided to a parent or
6 guardian described in this subdivision when the court finds, by
7 clear and convincing evidence, any of the following:

8 (1) That the whereabouts of the parent or guardian is unknown.
9 A finding pursuant to this paragraph shall be supported by an
10 affidavit or by proof that a reasonably diligent search has failed
11 to locate the parent or guardian. The posting or publication of
12 notices is not required in that search.

13 (2) That the parent or guardian is suffering from a mental
14 disability that is described in Chapter 2 (commencing with Section
15 7820) of Part 4 of Division 12 of the Family Code and that renders
16 him or her incapable of utilizing those services.

17 (3) That the child or a sibling of the child has been previously
18 adjudicated a dependent pursuant to any subdivision of Section
19 300 as a result of physical or sexual abuse, that following that
20 adjudication the child had been removed from the custody of his
21 or her parent or guardian pursuant to Section 361, that the child
22 has been returned to the custody of the parent or guardian from
23 whom the child had been taken originally, and that the child is
24 being removed pursuant to Section 361, due to additional physical
25 or sexual abuse.

26 (4) That the parent or guardian of the child has caused the death
27 of another child through abuse or neglect.

28 (5) That the child was brought within the jurisdiction of the
29 court under subdivision (e) of Section 300 because of the conduct
30 of that parent or guardian.

31 (6) That the child has been adjudicated a dependent pursuant
32 to any subdivision of Section 300 as a result of severe sexual abuse
33 or the infliction of severe physical harm to the child, a sibling, or
34 a half sibling by a parent or guardian, as defined in this subdivision,
35 and the court makes a factual finding that it would not benefit the
36 child to pursue reunification services with the offending parent or
37 guardian.

38 A finding of severe sexual abuse, for the purposes of this
39 subdivision, may be based on, but is not limited to, sexual
40 intercourse, or stimulation involving genital-genital, oral-genital,

1 anal-genital, or oral-anal contact, whether between the parent or
2 guardian and the child or a sibling or half sibling of the child, or
3 between the child or a sibling or half sibling of the child and
4 another person or animal with the actual or implied consent of the
5 parent or guardian; or the penetration or manipulation of the
6 child's, sibling's, or half sibling's genital organs or rectum by any
7 animate or inanimate object for the sexual gratification of the
8 parent or guardian, or for the sexual gratification of another person
9 with the actual or implied consent of the parent or guardian.

10 A finding of the infliction of severe physical harm, for the
11 purposes of this subdivision, may be based on, but is not limited
12 to, deliberate and serious injury inflicted to or on a child's body
13 or the body of a sibling or half sibling of the child by an act or
14 omission of the parent or guardian, or of another individual or
15 animal with the consent of the parent or guardian; deliberate and
16 torturous confinement of the child, sibling, or half sibling in a
17 closed space; or any other torturous act or omission that would be
18 reasonably understood to cause serious emotional damage.

19 (7) That the parent is not receiving reunification services for a
20 sibling or a half sibling of the child pursuant to paragraph (3), (5),
21 or (6).

22 (8) That the child was conceived by means of the commission
23 of an offense listed in Section 288 or 288.5 of the Penal Code, or
24 by an act committed outside of this state that, if committed in this
25 state, would constitute one of those offenses. This paragraph only
26 applies to the parent who committed the offense or act.

27 (9) That the child has been found to be a child described in
28 subdivision (g) of Section 300, that the parent or guardian of the
29 child willfully abandoned the child, and the court finds that the
30 abandonment itself constituted a serious danger to the child; or
31 that the parent or other person having custody of the child
32 voluntarily surrendered physical custody of the child pursuant to
33 Section 1255.7 of the Health and Safety Code. For the purposes
34 of this paragraph, "serious danger" means that without the
35 intervention of another person or agency, the child would have
36 sustained severe or permanent disability, injury, illness, or death.
37 For purposes of this paragraph, "willful abandonment" shall not
38 be construed as actions taken in good faith by the parent without
39 the intent of placing the child in serious danger.

1 (10) That the court ordered termination of reunification services
2 for any siblings or half siblings of the child because the parent or
3 guardian failed to reunify with the sibling or half sibling after the
4 sibling or half sibling had been removed from that parent or
5 guardian pursuant to Section 361 and that parent or guardian is
6 the same parent or guardian described in subdivision (a) and that,
7 according to the findings of the court, this parent or guardian has
8 not subsequently made a reasonable effort to treat the problems
9 that led to removal of the sibling or half sibling of that child from
10 that parent or guardian.

11 (11) That the parental rights of a parent over any sibling or half
12 sibling of the child had been permanently severed, and this parent
13 is the same parent described in subdivision (a), and that, according
14 to the findings of the court, this parent has not subsequently made
15 a reasonable effort to treat the problems that led to removal of the
16 sibling or half sibling of that child from the parent.

17 (12) That the parent or guardian of the child has been convicted
18 of a violent felony, as defined in subdivision (c) of Section 667.5
19 of the Penal Code.

20 (13) That the parent or guardian of the child has a history of
21 extensive, abusive, and chronic use of drugs or alcohol and has
22 resisted prior court-ordered treatment for this problem during a
23 three-year period immediately prior to the filing of the petition
24 that brought that child to the court's attention, or has failed or
25 refused to comply with a program of drug or alcohol treatment
26 described in the case plan required by Section 358.1 on at least
27 two prior occasions, even though the programs identified were
28 available and accessible.

29 (14) That the parent or guardian of the child has advised the
30 court that he or she is not interested in receiving family
31 maintenance or family reunification services or having the child
32 returned to or placed in his or her custody and does not wish to
33 receive family maintenance or reunification services.

34 The parent or guardian shall be represented by counsel and shall
35 execute a waiver of services form to be adopted by the Judicial
36 Council. The court shall advise the parent or guardian of any right
37 to services and of the possible consequences of a waiver of
38 services, including the termination of parental rights and placement
39 of the child for adoption. The court shall not accept the waiver of
40 services unless it states on the record its finding that the parent or

1 guardian has knowingly and intelligently waived the right to
2 services.

3 (15) That the parent or guardian has on one or more occasions
4 willfully abducted the child or child's sibling or half sibling from
5 his or her placement and refused to disclose the child's or child's
6 sibling's or half sibling's whereabouts, refused to return physical
7 custody of the child or child's sibling or half sibling to his or her
8 placement, or refused to return physical custody of the child or
9 child's sibling or half sibling to the social worker.

10 (c) In deciding whether to order reunification in any case in
11 which this section applies, the court shall hold a dispositional
12 hearing. The social worker shall prepare a report that discusses
13 whether reunification services shall be provided. When it is alleged,
14 pursuant to paragraph (2) of subdivision (b), that the parent is
15 incapable of utilizing services due to mental disability, the court
16 shall order reunification services unless competent evidence from
17 mental health professionals establishes that, even with the provision
18 of services, the parent is unlikely to be capable of adequately caring
19 for the child within the time limits specified in subdivision (a).

20 The court shall not order reunification for a parent or guardian
21 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),
22 (13), (14), or (15) of subdivision (b) unless the court finds, by clear
23 and convincing evidence, that reunification is in the best interest
24 of the child.

25 In addition, the court shall not order reunification in any situation
26 described in paragraph (5) of subdivision (b) unless it finds that,
27 based on competent testimony, those services are likely to prevent
28 reabuse or continued neglect of the child or that failure to try
29 reunification will be detrimental to the child because the child is
30 closely and positively attached to that parent. The social worker
31 shall investigate the circumstances leading to the removal of the
32 child and advise the court whether there are circumstances that
33 indicate that reunification is likely to be successful or unsuccessful
34 and whether failure to order reunification is likely to be detrimental
35 to the child.

36 The failure of the parent to respond to previous services, the fact
37 that the child was abused while the parent was under the influence
38 of drugs or alcohol, a past history of violent behavior, or testimony
39 by a competent professional that the parent's behavior is unlikely
40 to be changed by services are among the factors indicating that

1 reunification services are unlikely to be successful. The fact that
2 a parent or guardian is no longer living with an individual who
3 severely abused the child may be considered in deciding that
4 reunification services are likely to be successful, provided that the
5 court shall consider any pattern of behavior on the part of the parent
6 that has exposed the child to repeated abuse.

7 (d) If reunification services are not ordered pursuant to
8 paragraph (1) of subdivision (b) and the whereabouts of a parent
9 become known within six months of the out-of-home placement
10 of the child, the court shall order the social worker to provide
11 family reunification services in accordance with this subdivision.

12 (e) (1) If the parent or guardian is incarcerated or
13 institutionalized, the court shall order reasonable services unless
14 the court determines, by clear and convincing evidence, those
15 services would be detrimental to the child. In determining
16 detriment, the court shall consider the age of the child, the degree
17 of parent-child bonding, the length of the sentence, the length and
18 nature of the treatment, the nature of the crime or illness, the degree
19 of detriment to the child if services are not offered and, for children
20 10 years of age or older, the child's attitude toward the
21 implementation of family reunification services, the likelihood of
22 the parent's discharge from incarceration or institutionalization
23 within the reunification time limitations described in subdivision
24 (a), and any other appropriate factors. In determining the content
25 of reasonable services, the court shall consider the particular
26 barriers to an incarcerated or otherwise institutionalized parent's
27 access to those court-mandated services and ability to maintain
28 contact with his or her child, and shall document this information
29 in the child's case plan. Reunification services are subject to the
30 applicable time limitations imposed in subdivision (a). Services
31 may include, but shall not be limited to, all of the following:

32 (A) Maintaining contact between the parent and child through
33 collect telephone calls.

34 (B) Transportation services, where appropriate.

35 (C) Visitation services, where appropriate.

36 (D) Reasonable services to extended family members or foster
37 parents providing care for the child if the services are not
38 detrimental to the child.

39 An incarcerated parent may be required to attend counseling,
40 parenting classes, or vocational training programs as part of the

1 reunification service plan if actual access to these services is
2 provided. The social worker shall document in the child's case
3 plan the particular barriers to an incarcerated or institutionalized
4 parent's access to those court-mandated services and ability to
5 maintain contact with his or her child.

6 (2) The presiding judge of the juvenile court of each county
7 may convene representatives of the county welfare department,
8 the sheriff's department, and other appropriate entities for the
9 purpose of developing and entering into protocols for ensuring the
10 notification, transportation, and presence of an incarcerated or
11 institutionalized parent at all court hearings involving proceedings
12 affecting the child pursuant to Section 2625 of the Penal Code.
13 The county welfare department shall utilize the prisoner locator
14 system developed by the Department of Corrections and
15 Rehabilitation to facilitate timely and effective notice of hearings
16 for incarcerated parents.

17 (3) Notwithstanding any other provision of law, if the
18 incarcerated parent is a woman seeking to participate in the
19 community treatment program operated by the Department of
20 Corrections and Rehabilitation pursuant to Chapter 4.8
21 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter
22 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal
23 Code, the court shall determine whether the parent's participation
24 in a program is in the child's best interest and whether it is suitable
25 to meet the needs of the parent and child.

26 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),
27 (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or
28 paragraph (1) of subdivision (e), does not order reunification
29 services, it shall, at the dispositional hearing, that shall include a
30 permanency hearing, determine if a hearing under Section 366.26
31 shall be set in order to determine whether adoption, guardianship,
32 or long-term foster care is the most appropriate plan for the child,
33 and shall consider in-state and out-of-state placement options. If
34 the court so determines, it shall conduct the hearing pursuant to
35 Section 366.26 within 120 days after the dispositional hearing.
36 However, the court shall not schedule a hearing so long as the
37 other parent is being provided reunification services pursuant to
38 subdivision (a). The court may continue to permit the parent to
39 visit the child unless it finds that visitation would be detrimental
40 to the child.

1 (g) (1) Whenever a court orders that a hearing shall be held
2 pursuant to Section 366.26, it shall direct the agency supervising
3 the child and the licensed county adoption agency, or the State
4 Department of Social Services when it is acting as an adoption
5 agency in counties that are not served by a county adoption agency,
6 to prepare an assessment that shall include:

7 (A) Current search efforts for an absent parent or parents and
8 notification of a noncustodial parent in the manner provided for
9 in Section 291.

10 (B) A review of the amount of and nature of any contact between
11 the child and his or her parents and other members of his or her
12 extended family since the time of placement. Although the
13 extended family of each child shall be reviewed on a case-by-case
14 basis, “extended family” for the purpose of this subparagraph shall
15 include, but not be limited to, the child’s siblings, grandparents,
16 aunts, and uncles.

17 (C) An evaluation of the child’s medical, developmental,
18 scholastic, mental, and emotional status.

19 (D) A preliminary assessment of the eligibility and commitment
20 of any identified prospective adoptive parent or guardian,
21 particularly the caretaker, to include a social history, including
22 screening for criminal records and prior referrals for child abuse
23 or neglect, the capability to meet the child’s needs, and the
24 understanding of the legal and financial rights and responsibilities
25 of adoption and guardianship. If a proposed guardian is a relative
26 of the minor, the assessment shall also consider, but need not be
27 limited to, all of the factors specified in subdivision (a) of Section
28 361.3 and in Section 361.4. As used in this subparagraph, “relative”
29 means an adult who is related to the minor by blood, adoption, or
30 affinity within the fifth degree of kinship, including stepparents,
31 stepsiblings, and all relatives whose status is preceded by the words
32 “great,” “great-great,” or “grand,” or the spouse of any of those
33 persons even if the marriage was terminated by death or
34 dissolution.

35 (E) The relationship of the child to any identified prospective
36 adoptive parent or guardian, the duration and character of the
37 relationship, the degree of attachment of the child to the prospective
38 relative guardian or adoptive parent, the relative’s or adoptive
39 parent’s strong commitment to caring permanently for the child,
40 the motivation for seeking adoption or guardianship, a statement

1 from the child concerning placement and the adoption or
2 guardianship, and whether the child over 12 years of age has been
3 consulted about the proposed relative guardianship arrangements
4 unless the child's age or physical, emotional, or other condition
5 precludes his or her meaningful response, and if so, a description
6 of the condition.

7 (F) An analysis of the likelihood that the child will be adopted
8 if parental rights are terminated.

9 (2) (A) A relative caregiver's preference for legal guardianship
10 over adoption, if it is due to circumstances that do not include an
11 unwillingness to accept legal or financial responsibility for the
12 child, shall not constitute the sole basis for recommending removal
13 of the child from the relative caregiver for purposes of adoptive
14 placement.

15 (B) A relative caregiver shall be given information regarding
16 the permanency options of guardianship and adoption, including
17 the long-term benefits and consequences of each option, prior to
18 establishing legal guardianship or pursuing adoption.

19 (h) If, at any hearing held pursuant to Section 366.26, a
20 guardianship is established for the minor with an approved relative
21 caregiver and juvenile court dependency is subsequently dismissed,
22 the minor shall be eligible for aid under the Kin-GAP Program as
23 provided for in Article 4.5 (commencing with Section 11360) or
24 Article 4.7 (commencing with Section 11385) of Chapter 2, as
25 applicable.

26 (i) In determining whether reunification services will benefit
27 the child pursuant to paragraph (6) or (7) of subdivision (b), the
28 court shall consider any information it deems relevant, including
29 the following factors:

30 (1) The specific act or omission comprising the severe sexual
31 abuse or the severe physical harm inflicted on the child or the
32 child's sibling or half sibling.

33 (2) The circumstances under which the abuse or harm was
34 inflicted on the child or the child's sibling or half sibling.

35 (3) The severity of the emotional trauma suffered by the child
36 or the child's sibling or half sibling.

37 (4) Any history of abuse of other children by the offending
38 parent or guardian.

1 (5) The likelihood that the child may be safely returned to the
2 care of the offending parent or guardian within 12 months with no
3 continuing supervision.

4 (6) Whether or not the child desires to be reunified with the
5 offending parent or guardian.

6 (j) The court shall read into the record the basis for a finding of
7 severe sexual abuse or the infliction of severe physical harm under
8 paragraph (6) of subdivision (b), and shall also specify the factual
9 findings used to determine that the provision of reunification
10 services to the offending parent or guardian would not benefit the
11 child.

12 (k) This section shall become operative on January 1, 2014.

13 SEC. 15. Section 366 of the Welfare and Institutions Code is
14 amended to read:

15 366. (a) (1) The status of every dependent child in foster care
16 shall be reviewed periodically as determined by the court but no
17 less frequently than once every six months, as calculated from the
18 date of the original dispositional hearing, until the hearing
19 described in Section 366.26 is completed. The court shall consider
20 the safety of the child and shall determine all of the following:

21 (A) The continuing necessity for and appropriateness of the
22 placement.

23 (B) The extent of the agency's compliance with the case plan
24 in making reasonable efforts, or, in the case of an Indian child,
25 active efforts as described in Section 361.7, to return the child to
26 a safe home and to complete any steps necessary to finalize the
27 permanent placement of the child, including efforts to maintain
28 relationships between a child who is 10 years of age or older and
29 who has been in an out-of-home placement for six months or
30 longer, and individuals other than the child's siblings who are
31 important to the child, consistent with the child's best interests.

32 (C) Whether there should be any limitation on the right of the
33 parent or guardian to make educational decisions for the child.
34 That limitation shall be specifically addressed in the court order
35 and may not exceed those necessary to protect the child. Whenever
36 the court specifically limits the right of the parent or guardian to
37 make educational decisions for the child, the court shall at the
38 same time appoint a responsible adult to make educational
39 decisions for the child pursuant to Section 361.

1 (D) (i) Whether the child has other siblings under the court's
2 jurisdiction, and, if any siblings exist, all of the following:

3 (I) The nature of the relationship between the child and his or
4 her siblings.

5 (II) The appropriateness of developing or maintaining the sibling
6 relationships pursuant to Section 16002.

7 (III) If the siblings are not placed together in the same home,
8 why the siblings are not placed together and what efforts are being
9 made to place the siblings together, or why those efforts are not
10 appropriate.

11 (IV) If the siblings are not placed together, the frequency and
12 nature of the visits between siblings.

13 (V) The impact of the sibling relationships on the child's
14 placement and planning for legal permanence.

15 (VI) The continuing need to suspend sibling interaction, if
16 applicable, pursuant to subdivision (c) of Section 16002.

17 (ii) The factors the court may consider in making a determination
18 regarding the nature of the child's sibling relationships may
19 include, but are not limited to, whether the siblings were raised
20 together in the same home, whether the siblings have shared
21 significant common experiences or have existing close and strong
22 bonds, whether either sibling expresses a desire to visit or live with
23 his or her sibling, as applicable, and whether ongoing contact is
24 in the child's best emotional interests.

25 (E) The extent of progress that has been made toward alleviating
26 or mitigating the causes necessitating placement in foster care.

27 (F) On and after January 1, 2012, if the review hearing is the
28 last review hearing to be held before the child attains 18 years of
29 age, the court shall ensure that the child's transitional independent
30 living case plan includes a plan for the child to meet one or more
31 of the criteria set forth in Section 11403, so that the child can
32 remain a nonminor dependent, and that the child has been informed
33 of his or her right to seek the termination of dependency
34 jurisdiction pursuant to Section 391.

35 (2) The court shall project a likely date by which the child may
36 be returned to and safely maintained in the home or placed for
37 adoption, legal guardianship, or in another planned permanent
38 living arrangement.

1 (b) Subsequent to the hearing, periodic reviews of each child
2 in foster care shall be conducted pursuant to the requirements of
3 Sections 366.3 and 16503.

4 (c) If the child has been placed out of state, each review
5 described in subdivision (a) and any reviews conducted pursuant
6 to Sections 366.3 and 16503 shall also address whether the
7 out-of-state placement continues to be the most appropriate
8 placement selection and in the best interests of the child.

9 (d) A child may not be placed in an out-of-state group home,
10 or remain in an out-of-state group home, unless the group home
11 is in compliance with Section 7911.1 of the Family Code.

12 (e) The implementation and operation of the amendments to
13 subparagraph (B) of paragraph (1) of subdivision (a) enacted at
14 the 2005–06 Regular Session shall be subject to appropriation
15 through the budget process and by phase, as provided in Section
16 366.35.

17 (f) On and after January 1, 2012, the status of every nonminor
18 dependent, as defined in subdivision (v) of Section 11400, shall
19 be reviewed periodically as determined by the court, but no less
20 frequently than once every six months, as calculated from the date
21 of the original dispositional hearing until dependency jurisdiction
22 is terminated pursuant to Section 391. The review shall include
23 all of the issues set forth in subdivision (a), except subparagraph
24 (C) of paragraph (1) of subdivision (a), and shall be conducted in
25 a manner that respects the nonminor dependent's status as a legal
26 adult, be focused on the goals and services described in the
27 nonminor dependent's transitional independent living case plan,
28 including efforts made to achieve permanence, including
29 maintaining or obtaining permanent connections with caring and
30 committed adults, and attended as appropriate by additional
31 participants invited by the nonminor dependent. An appropriate
32 placement for a nonminor dependent may include a supervised
33 independent living setting, as described in Section 11400.

34 SEC. 16. Section 366.21 of the Welfare and Institutions Code,
35 as amended by Section 8 of Chapter 287 of the Statutes of 2009,
36 is amended to read:

37 366.21. (a) Every hearing conducted by the juvenile court
38 reviewing the status of a dependent child shall be placed on the
39 appearance calendar. The court shall advise all persons present at

1 the hearing of the date of the future hearing and of their right to
2 be present and represented by counsel.

3 (b) Except as provided in Sections 294 and 295, notice of the
4 hearing shall be provided pursuant to Section 293.

5 (c) At least 10 calendar days prior to the hearing, the social
6 worker shall file a supplemental report with the court regarding
7 the services provided or offered to the parent or legal guardian to
8 enable him or her to assume custody and the efforts made to
9 achieve legal permanence for the child if efforts to reunify fail,
10 including, but not limited to, efforts to maintain relationships
11 between a child who is 10 years of age or older and has been in
12 out-of-home placement for six months or longer and individuals
13 who are important to the child, consistent with the child's best
14 interests; the progress made; and, where relevant, the prognosis
15 for return of the child to the physical custody of his or her parent
16 or legal guardian; and shall make his or her recommendation for
17 disposition. If the child is a member of a sibling group described
18 in subparagraph (C) of paragraph (1) of subdivision (a) of Section
19 361.5, the report and recommendation may also take into account
20 those factors described in subdivision (e) relating to the child's
21 sibling group. If the recommendation is not to return the child to
22 a parent or legal guardian, the report shall specify why the return
23 of the child would be detrimental to the child. The social worker
24 shall provide the parent or legal guardian, counsel for the child,
25 and any court-appointed child advocate with a copy of the report,
26 including his or her recommendation for disposition, at least 10
27 calendar days prior to the hearing. In the case of a child removed
28 from the physical custody of his or her parent or legal guardian,
29 the social worker shall, at least 10 calendar days prior to the
30 hearing, provide a summary of his or her recommendation for
31 disposition to any foster parents, relative caregivers, and certified
32 foster parents who have been approved for adoption by the State
33 Department of Social Services when it is acting as an adoption
34 agency in counties that are not served by a county adoption agency
35 or by a licensed county adoption agency, community care facility,
36 or foster family agency having the physical custody of the child.
37 The social worker shall include a copy of the Judicial Council
38 Caregiver Information Form (JV-290) with the summary of
39 recommendations to the child's foster parents, relative caregivers,
40 or foster parents approved for adoption, in the caregiver's primary

1 language when available, along with information on how to file
2 the form with the court.

3 (d) Prior to any hearing involving a child in the physical custody
4 of a community care facility or a foster family agency that may
5 result in the return of the child to the physical custody of his or
6 her parent or legal guardian, or in adoption or the creation of a
7 legal guardianship, or in the case of an Indian child, in consultation
8 with the child's tribe, tribal customary adoption, the facility or
9 agency shall file with the court a report, or a Judicial Council
10 Caregiver Information Form (JV-290), containing its
11 recommendation for disposition. Prior to the hearing involving a
12 child in the physical custody of a foster parent, a relative caregiver,
13 or a certified foster parent who has been approved for adoption by
14 the State Department of Social Services when it is acting as an
15 adoption agency or by a licensed adoption agency, the foster parent,
16 relative caregiver, or the certified foster parent who has been
17 approved for adoption by the State Department of Social Services
18 when it is acting as an adoption agency in counties that are not
19 served by a county adoption agency or by a licensed county
20 adoption agency, may file with the court a report containing his
21 or her recommendation for disposition. The court shall consider
22 the report and recommendation filed pursuant to this subdivision
23 prior to determining any disposition.

24 (e) At the review hearing held six months after the initial
25 dispositional hearing, but no later than 12 months after the date
26 the child entered foster care as determined in Section 361.49,
27 whichever occurs earlier, the court shall order the return of the
28 child to the physical custody of his or her parent or legal guardian
29 unless the court finds, by a preponderance of the evidence, that
30 the return of the child to his or her parent or legal guardian would
31 create a substantial risk of detriment to the safety, protection, or
32 physical or emotional well-being of the child. The social worker
33 shall have the burden of establishing that detriment. At the hearing,
34 the court shall consider the criminal history, obtained pursuant to
35 paragraph (1) of subdivision (f) of Section 16504.5, of the parent
36 or legal guardian subsequent to the child's removal to the extent
37 that the criminal record is substantially related to the welfare of
38 the child or the parent's or guardian's ability to exercise custody
39 and control regarding his or her child, provided the parent or legal
40 guardian agreed to submit fingerprint images to obtain criminal

1 history information as part of the case plan. The failure of the
2 parent or legal guardian to participate regularly and make
3 substantive progress in court-ordered treatment programs shall be
4 prima facie evidence that return would be detrimental. In making
5 its determination, the court shall review and consider the social
6 worker's report and recommendations and the report and
7 recommendations of any child advocate appointed pursuant to
8 Section 356.5; and shall consider the efforts or progress, or both,
9 demonstrated by the parent or legal guardian and the extent to
10 which he or she availed himself or herself to services provided,
11 taking into account the particular barriers to an incarcerated or
12 institutionalized parent or legal guardian's access to those
13 court-mandated services and ability to maintain contact with his
14 or her child.

15 Regardless of whether the child is returned to a parent or legal
16 guardian, the court shall specify the factual basis for its conclusion
17 that the return would be detrimental or would not be detrimental.
18 The court also shall make appropriate findings pursuant to
19 subdivision (a) of Section 366; and, where relevant, shall order
20 any additional services reasonably believed to facilitate the return
21 of the child to the custody of his or her parent or legal guardian.
22 The court shall also inform the parent or legal guardian that if the
23 child cannot be returned home by the 12-month permanency
24 hearing, a proceeding pursuant to Section 366.26 may be instituted.
25 This section does not apply in a case where, pursuant to Section
26 361.5, the court has ordered that reunification services shall not
27 be provided.

28 If the child was under three years of age on the date of the initial
29 removal, or is a member of a sibling group described in
30 subparagraph (C) of paragraph (1) of subdivision (a) of Section
31 361.5, and the court finds by clear and convincing evidence that
32 the parent failed to participate regularly and make substantive
33 progress in a court-ordered treatment plan, the court may schedule
34 a hearing pursuant to Section 366.26 within 120 days. If, however,
35 the court finds there is a substantial probability that the child, who
36 was under three years of age on the date of initial removal or is a
37 member of a sibling group described in subparagraph (C) of
38 paragraph (1) of subdivision (a) of Section 361.5, may be returned
39 to his or her parent or legal guardian within six months or that

1 reasonable services have not been provided, the court shall continue
2 the case to the 12-month permanency hearing.

3 For the purpose of placing and maintaining a sibling group
4 together in a permanent home, the court, in making its
5 determination to schedule a hearing pursuant to Section 366.26
6 for some or all members of a sibling group, as described in
7 subparagraph (C) of paragraph (1) of subdivision (a) of Section
8 361.5, shall review and consider the social worker's report and
9 recommendations. Factors the report shall address, and the court
10 shall consider, may include, but need not be limited to, whether
11 the sibling group was removed from parental care as a group, the
12 closeness and strength of the sibling bond, the ages of the siblings,
13 the appropriateness of maintaining the sibling group together, the
14 detriment to the child if sibling ties are not maintained, the
15 likelihood of finding a permanent home for the sibling group,
16 whether the sibling group is currently placed together in a
17 preadoptive home or has a concurrent plan goal of legal
18 permanency in the same home, the wishes of each child whose
19 age and physical and emotional condition permits a meaningful
20 response, and the best interest of each child in the sibling group.
21 The court shall specify the factual basis for its finding that it is in
22 the best interest of each child to schedule a hearing pursuant to
23 Section 366.26 in 120 days for some or all of the members of the
24 sibling group.

25 If the child was removed initially under subdivision (g) of
26 Section 300 and the court finds by clear and convincing evidence
27 that the whereabouts of the parent are still unknown, or the parent
28 has failed to contact and visit the child, the court may schedule a
29 hearing pursuant to Section 366.26 within 120 days. The court
30 shall take into account any particular barriers to a parent's ability
31 to maintain contact with his or her child due to the parent's
32 incarceration or institutionalization. If the court finds by clear and
33 convincing evidence that the parent has been convicted of a felony
34 indicating parental unfitness, the court may schedule a hearing
35 pursuant to Section 366.26 within 120 days.

36 If the child had been placed under court supervision with a
37 previously noncustodial parent pursuant to Section 361.2, the court
38 shall determine whether supervision is still necessary. The court
39 may terminate supervision and transfer permanent custody to that

1 parent, as provided for by paragraph (1) of subdivision (b) of
2 Section 361.2.

3 In all other cases, the court shall direct that any reunification
4 services previously ordered shall continue to be offered to the
5 parent or legal guardian pursuant to the time periods set forth in
6 subdivision (a) of Section 361.5, provided that the court may
7 modify the terms and conditions of those services.

8 If the child is not returned to his or her parent or legal guardian,
9 the court shall determine whether reasonable services that were
10 designed to aid the parent or legal guardian in overcoming the
11 problems that led to the initial removal and the continued custody
12 of the child have been provided or offered to the parent or legal
13 guardian. The court shall order that those services be initiated,
14 continued, or terminated.

15 (f) The permanency hearing shall be held no later than 12
16 months after the date the child entered foster care, as that date is
17 determined pursuant to Section 361.49. At the permanency hearing,
18 the court shall determine the permanent plan for the child, which
19 shall include a determination of whether the child will be returned
20 to the child's home and, if so, when, within the time limits of
21 subdivision (a) of Section 361.5. The court shall order the return
22 of the child to the physical custody of his or her parent or legal
23 guardian unless the court finds, by a preponderance of the evidence,
24 that the return of the child to his or her parent or legal guardian
25 would create a substantial risk of detriment to the safety, protection,
26 or physical or emotional well-being of the child. The social worker
27 shall have the burden of establishing that detriment. At the
28 permanency hearing, the court shall consider the criminal history,
29 obtained pursuant to paragraph (1) of subdivision (f) of Section
30 16504.5, of the parent or legal guardian subsequent to the child's
31 removal to the extent that the criminal record is substantially related
32 to the welfare of the child or the parent or legal guardian's ability
33 to exercise custody and control regarding his or her child, provided
34 that the parent or legal guardian agreed to submit fingerprint images
35 to obtain criminal history information as part of the case plan. The
36 court shall also determine whether reasonable services that were
37 designed to aid the parent or legal guardian to overcome the
38 problems that led to the initial removal and continued custody of
39 the child have been provided or offered to the parent or legal
40 guardian. For each youth 16 years of age and older, the court shall

1 also determine whether services have been made available to assist
2 him or her in making the transition from foster care to independent
3 living. The failure of the parent or legal guardian to participate
4 regularly and make substantive progress in court-ordered treatment
5 programs shall be prima facie evidence that return would be
6 detrimental. In making its determination, the court shall review
7 and consider the social worker's report and recommendations and
8 the report and recommendations of any child advocate appointed
9 pursuant to Section 356.5, shall consider the efforts or progress,
10 or both, demonstrated by the parent or legal guardian and the extent
11 to which he or she availed himself or herself of services provided,
12 taking into account the particular barriers to an incarcerated or
13 institutionalized parent or legal guardian's access to those
14 court-mandated services and ability to maintain contact with his
15 or her child and shall make appropriate findings pursuant to
16 subdivision (a) of Section 366.

17 Regardless of whether the child is returned to his or her parent
18 or legal guardian, the court shall specify the factual basis for its
19 decision. If the child is not returned to a parent or legal guardian,
20 the court shall specify the factual basis for its conclusion that the
21 return would be detrimental. The court also shall make a finding
22 pursuant to subdivision (a) of Section 366. If the child is not
23 returned to his or her parent or legal guardian, the court shall
24 consider, and state for the record, in-state and out-of-state
25 placement options. If the child is placed out of the state, the court
26 shall make a determination whether the out-of-state placement
27 continues to be appropriate and in the best interests of the child.

28 (g) If the time period in which the court-ordered services were
29 provided has met or exceeded the time period set forth in
30 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
31 of Section 361.5, as appropriate, and a child is not returned to the
32 custody of a parent or legal guardian at the permanency hearing
33 held pursuant to subdivision (f), the court shall do one of the
34 following:

35 (1) Continue the case for up to six months for a permanency
36 review hearing, provided that the hearing shall occur within 18
37 months of the date the child was originally taken from the physical
38 custody of his or her parent or legal guardian. The court shall
39 continue the case only if it finds that there is a substantial
40 probability that the child will be returned to the physical custody

1 of his or her parent or legal guardian and safely maintained in the
2 home within the extended period of time or that reasonable services
3 have not been provided to the parent or legal guardian. For the
4 purposes of this section, in order to find a substantial probability
5 that the child will be returned to the physical custody of his or her
6 parent or legal guardian and safely maintained in the home within
7 the extended period of time, the court shall be required to find all
8 of the following:

9 (A) That the parent or legal guardian has consistently and
10 regularly contacted and visited with the child.

11 (B) That the parent or legal guardian has made significant
12 progress in resolving problems that led to the child's removal from
13 the home.

14 (C) The parent or legal guardian has demonstrated the capacity
15 and ability both to complete the objectives of his or her treatment
16 plan and to provide for the child's safety, protection, physical and
17 emotional well-being, and special needs.

18 For purposes of this subdivision, the court's decision to continue
19 the case based on a finding or substantial probability that the child
20 will be returned to the physical custody of his or her parent or legal
21 guardian is a compelling reason for determining that a hearing
22 held pursuant to Section 366.26 is not in the best interests of the
23 child.

24 The court shall inform the parent or legal guardian that if the
25 child cannot be returned home by the next permanency review
26 hearing, a proceeding pursuant to Section 366.26 may be instituted.
27 The court may not order that a hearing pursuant to Section 366.26
28 be held unless there is clear and convincing evidence that
29 reasonable services have been provided or offered to the parent or
30 legal guardian.

31 (2) Order that a hearing be held within 120 days, pursuant to
32 Section 366.26, but only if the court does not continue the case to
33 the permanency planning review hearing and there is clear and
34 convincing evidence that reasonable services have been provided
35 or offered to the parents or legal guardians. On and after January
36 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
37 if the child is a nonminor dependent.

38 (3) Order that the child remain in long-term foster care, but only
39 if the court finds by clear and convincing evidence, based upon
40 the evidence already presented to it, including a recommendation

1 by the State Department of Social Services when it is acting as an
2 adoption agency in counties that are not served by a county
3 adoption agency or by a licensed county adoption agency, that
4 there is a compelling reason for determining that a hearing held
5 pursuant to Section 366.26 is not in the best interest of the child
6 because the child is not a proper subject for adoption and has no
7 one willing to accept legal guardianship. For purposes of this
8 section, a recommendation by the State Department of Social
9 Services when it is acting as an adoption agency in counties that
10 are not served by a county adoption agency or by a licensed county
11 adoption agency that adoption is not in the best interest of the child
12 shall constitute a compelling reason for the court's determination.
13 That recommendation shall be based on the present circumstances
14 of the child and shall not preclude a different recommendation at
15 a later date if the child's circumstances change. On and after
16 January 1, 2012, the nonminor dependent's legal status as an adult
17 is in and of itself a compelling reason not to hold a hearing pursuant
18 to Section 366.26. The court may order that a nonminor dependent
19 who otherwise meets the criteria described in Section 11403 remain
20 in a planned, permanent living arrangement.

21 If the court orders that a child who is 10 years of age or older
22 remain in long-term foster care, the court shall determine whether
23 the agency has made reasonable efforts to maintain the child's
24 relationships with individuals other than the child's siblings who
25 are important to the child, consistent with the child's best interests,
26 and may make any appropriate order to ensure that those
27 relationships are maintained.

28 If the child is not returned to his or her parent or legal guardian,
29 the court shall consider, and state for the record, in-state and
30 out-of-state options for permanent placement. If the child is placed
31 out of the state, the court shall make a determination whether the
32 out-of-state placement continues to be appropriate and in the best
33 interests of the child.

34 (h) In any case in which the court orders that a hearing pursuant
35 to Section 366.26 shall be held, it shall also order the termination
36 of reunification services to the parent or legal guardian. The court
37 shall continue to permit the parent or legal guardian to visit the
38 child pending the hearing unless it finds that visitation would be
39 detrimental to the child. The court shall make any other appropriate
40 orders to enable the child to maintain relationships with individuals,

1 other than the child's siblings, who are important to the child,
2 consistent with the child's best interests.

3 (i) (1) Whenever a court orders that a hearing pursuant to
4 Section 366.26, including, when, in consultation with the child's
5 tribe, tribal customary adoption is recommended, shall be held, it
6 shall direct the agency supervising the child and the licensed county
7 adoption agency, or the State Department of Social Services when
8 it is acting as an adoption agency in counties that are not served
9 by a county adoption agency, to prepare an assessment that shall
10 include:

11 (A) Current search efforts for an absent parent or parents or
12 legal guardians.

13 (B) A review of the amount of and nature of any contact between
14 the child and his or her parents or legal guardians and other
15 members of his or her extended family since the time of placement.
16 Although the extended family of each child shall be reviewed on
17 a case-by-case basis, "extended family" for the purpose of this
18 subparagraph shall include, but not be limited to, the child's
19 siblings, grandparents, aunts, and uncles.

20 (C) An evaluation of the child's medical, developmental,
21 scholastic, mental, and emotional status.

22 (D) A preliminary assessment of the eligibility and commitment
23 of any identified prospective adoptive parent or legal guardian,
24 including the prospective tribal customary adoptive parent,
25 particularly the caretaker, to include a social history including
26 screening for criminal records and prior referrals for child abuse
27 or neglect, the capability to meet the child's needs, and the
28 understanding of the legal and financial rights and responsibilities
29 of adoption and guardianship. If a proposed guardian is a relative
30 of the minor, the assessment shall also consider, but need not be
31 limited to, all of the factors specified in subdivision (a) of Section
32 361.3 and in Section 361.4.

33 (E) The relationship of the child to any identified prospective
34 adoptive parent or legal guardian, the duration and character of
35 the relationship, the degree of attachment of the child to the
36 prospective relative guardian or adoptive parent, the relative's or
37 adoptive parent's strong commitment to caring permanently for
38 the child, the motivation for seeking adoption or guardianship, a
39 statement from the child concerning placement and the adoption
40 or guardianship, and whether the child, if over 12 years of age,

1 has been consulted about the proposed relative guardianship
2 arrangements, unless the child's age or physical, emotional, or
3 other condition precludes his or her meaningful response, and if
4 so, a description of the condition.

5 (F) A description of efforts to be made to identify a prospective
6 adoptive parent or legal guardian, including, but not limited to,
7 child-specific recruitment and listing on an adoption exchange
8 within the state or out of the state.

9 (G) An analysis of the likelihood that the child will be adopted
10 if parental rights are terminated.

11 (H) In the case of an Indian child, in addition to subparagraphs
12 (A) to (G), inclusive, an assessment of the likelihood that the child
13 will be adopted, when, in consultation with the child's tribe, a
14 customary tribal adoption, as defined in Section 366.24, is
15 recommended. If tribal customary adoption is recommended, the
16 assessment shall include an analysis of both of the following:

17 (i) Whether tribal customary adoption would or would not be
18 detrimental to the Indian child and the reasons for reaching that
19 conclusion.

20 (ii) Whether the Indian child cannot or should not be returned
21 to the home of the Indian parent or Indian custodian and the reasons
22 for reaching that conclusion.

23 (2) (A) A relative caregiver's preference for legal guardianship
24 over adoption, if it is due to circumstances that do not include an
25 unwillingness to accept legal or financial responsibility for the
26 child, shall not constitute the sole basis for recommending removal
27 of the child from the relative caregiver for purposes of adoptive
28 placement.

29 (B) A relative caregiver shall be given information regarding
30 the permanency options of guardianship and adoption, including
31 the long-term benefits and consequences of each option, prior to
32 establishing legal guardianship or pursuing adoption.

33 (j) If, at any hearing held pursuant to Section 366.26, a
34 guardianship is established for the minor with an approved relative
35 caregiver, and juvenile court dependency is subsequently
36 dismissed, the minor shall be eligible for aid under the Kin-GAP
37 Program, as provided for in Article 4.5 (commencing with Section
38 11360) or Article 4.7 (commencing with Section 11385), as
39 applicable, of Chapter 2 of Part 3 of Division 9.

1 (k) As used in this section, “relative” means an adult who is
2 related to the minor by blood, adoption, or affinity within the fifth
3 degree of kinship, including stepparents, stepsiblings, and all
4 relatives whose status is preceded by the words “great,”
5 “great-great,” or “grand,” or the spouse of any of those persons
6 even if the marriage was terminated by death or dissolution.

7 (l) For purposes of this section, evidence of any of the following
8 circumstances may not, in and of itself, be deemed a failure to
9 provide or offer reasonable services:

10 (1) The child has been placed with a foster family that is eligible
11 to adopt a child, or has been placed in a preadoptive home.

12 (2) The case plan includes services to make and finalize a
13 permanent placement for the child if efforts to reunify fail.

14 (3) Services to make and finalize a permanent placement for
15 the child, if efforts to reunify fail, are provided concurrently with
16 services to reunify the family.

17 (m) The implementation and operation of the amendments to
18 subdivisions (c) and (g) enacted at the 2005–06 Regular Session
19 shall be subject to appropriation through the budget process and
20 by phase, as provided in Section 366.35.

21 (n) This section shall remain in effect only until January 1, 2014,
22 and as of that date is repealed, unless a later enacted statute, that
23 is enacted before January 1, 2014, deletes or extends that date.

24 SEC. 17. Section 366.21 of the Welfare and Institutions Code,
25 as added by Section 9 of Chapter 287 of the Statutes of 2009, is
26 amended to read:

27 366.21. (a) Every hearing conducted by the juvenile court
28 reviewing the status of a dependent child shall be placed on the
29 appearance calendar. The court shall advise all persons present at
30 the hearing of the date of the future hearing and of their right to
31 be present and represented by counsel.

32 (b) Except as provided in Sections 294 and 295, notice of the
33 hearing shall be provided pursuant to Section 293.

34 (c) At least 10 calendar days prior to the hearing, the social
35 worker shall file a supplemental report with the court regarding
36 the services provided or offered to the parent or legal guardian to
37 enable him or her to assume custody and the efforts made to
38 achieve legal permanence for the child if efforts to reunify fail,
39 including, but not limited to, efforts to maintain relationships
40 between a child who is 10 years of age or older and has been in

1 out-of-home placement for six months or longer and individuals
2 who are important to the child, consistent with the child's best
3 interests; the progress made; and, where relevant, the prognosis
4 for return of the child to the physical custody of his or her parent
5 or legal guardian; and shall make his or her recommendation for
6 disposition. If the child is a member of a sibling group described
7 in subparagraph (C) of paragraph (1) of subdivision (a) of Section
8 361.5, the report and recommendation may also take into account
9 those factors described in subdivision (e) relating to the child's
10 sibling group. If the recommendation is not to return the child to
11 a parent or legal guardian, the report shall specify why the return
12 of the child would be detrimental to the child. The social worker
13 shall provide the parent or legal guardian, counsel for the child,
14 and any court-appointed child advocate with a copy of the report,
15 including his or her recommendation for disposition, at least 10
16 calendar days prior to the hearing. In the case of a child removed
17 from the physical custody of his or her parent or legal guardian,
18 the social worker shall, at least 10 calendar days prior to the
19 hearing, provide a summary of his or her recommendation for
20 disposition to any foster parents, relative caregivers, and certified
21 foster parents who have been approved for adoption by the State
22 Department of Social Services when it is acting as an adoption
23 agency in counties that are not served by a county adoption agency
24 or by a licensed county adoption agency, community care facility,
25 or foster family agency having the physical custody of the child.
26 The social worker shall include a copy of the Judicial Council
27 Caregiver Information Form (JV-290) with the summary of
28 recommendations to the child's foster parents, relative caregivers,
29 or foster parents approved for adoption, in the caregiver's primary
30 language when available, along with information on how to file
31 the form with the court.

32 (d) Prior to any hearing involving a child in the physical custody
33 of a community care facility or a foster family agency that may
34 result in the return of the child to the physical custody of his or
35 her parent or legal guardian, or in adoption or the creation of a
36 legal guardianship, the facility or agency shall file with the court
37 a report, or a Judicial Council Caregiver Information Form
38 (JV-290), containing its recommendation for disposition. Prior to
39 the hearing involving a child in the physical custody of a foster
40 parent, a relative caregiver, or a certified foster parent who has

1 been approved for adoption by the State Department of Social
2 Services when it is acting as an adoption agency or by a licensed
3 adoption agency, the foster parent, relative caregiver, or the
4 certified foster parent who has been approved for adoption by the
5 State Department of Social Services when it is acting as an
6 adoption agency in counties that are not served by a county
7 adoption agency or by a licensed county adoption agency, may
8 file with the court a report containing his or her recommendation
9 for disposition. The court shall consider the report and
10 recommendation filed pursuant to this subdivision prior to
11 determining any disposition.

12 (e) At the review hearing held six months after the initial
13 dispositional hearing, but no later than 12 months after the date
14 the child entered foster care as determined in Section 361.49,
15 whichever occurs earlier, the court shall order the return of the
16 child to the physical custody of his or her parent or legal guardian
17 unless the court finds, by a preponderance of the evidence, that
18 the return of the child to his or her parent or legal guardian would
19 create a substantial risk of detriment to the safety, protection, or
20 physical or emotional well-being of the child. The social worker
21 shall have the burden of establishing that detriment. At the hearing,
22 the court shall consider the criminal history, obtained pursuant to
23 paragraph (1) of subdivision (f) of Section 16504.5, of the parent
24 or legal guardian subsequent to the child's removal to the extent
25 that the criminal record is substantially related to the welfare of
26 the child or the parent's or guardian's ability to exercise custody
27 and control regarding his or her child, provided the parent or legal
28 guardian agreed to submit fingerprint images to obtain criminal
29 history information as part of the case plan. The failure of the
30 parent or legal guardian to participate regularly and make
31 substantive progress in court-ordered treatment programs shall be
32 prima facie evidence that return would be detrimental. In making
33 its determination, the court shall review and consider the social
34 worker's report and recommendations and the report and
35 recommendations of any child advocate appointed pursuant to
36 Section 356.5; and shall consider the efforts or progress, or both,
37 demonstrated by the parent or legal guardian and the extent to
38 which he or she availed himself or herself to services provided,
39 taking into account the particular barriers to an incarcerated or
40 institutionalized parent or legal guardian's access to those

1 court-mandated services and ability to maintain contact with his
2 or her child.

3 Regardless of whether the child is returned to a parent or legal
4 guardian, the court shall specify the factual basis for its conclusion
5 that the return would be detrimental or would not be detrimental.
6 The court also shall make appropriate findings pursuant to
7 subdivision (a) of Section 366; and, where relevant, shall order
8 any additional services reasonably believed to facilitate the return
9 of the child to the custody of his or her parent or legal guardian.
10 The court shall also inform the parent or legal guardian that if the
11 child cannot be returned home by the 12-month permanency
12 hearing, a proceeding pursuant to Section 366.26 may be instituted.
13 This section does not apply in a case where, pursuant to Section
14 361.5, the court has ordered that reunification services shall not
15 be provided.

16 If the child was under three years of age on the date of the initial
17 removal, or is a member of a sibling group described in
18 subparagraph (C) of paragraph (1) of subdivision (a) of Section
19 361.5, and the court finds by clear and convincing evidence that
20 the parent failed to participate regularly and make substantive
21 progress in a court-ordered treatment plan, the court may schedule
22 a hearing pursuant to Section 366.26 within 120 days. If, however,
23 the court finds there is a substantial probability that the child, who
24 was under three years of age on the date of initial removal or is a
25 member of a sibling group described in subparagraph (C) of
26 paragraph (1) of subdivision (a) of Section 361.5, may be returned
27 to his or her parent or legal guardian within six months or that
28 reasonable services have not been provided, the court shall continue
29 the case to the 12-month permanency hearing.

30 For the purpose of placing and maintaining a sibling group
31 together in a permanent home, the court, in making its
32 determination to schedule a hearing pursuant to Section 366.26
33 for some or all members of a sibling group, as described in
34 subparagraph (C) of paragraph (1) of subdivision (a) of Section
35 361.5, shall review and consider the social worker's report and
36 recommendations. Factors the report shall address, and the court
37 shall consider, may include, but need not be limited to, whether
38 the sibling group was removed from parental care as a group, the
39 closeness and strength of the sibling bond, the ages of the siblings,
40 the appropriateness of maintaining the sibling group together, the

1 detriment to the child if sibling ties are not maintained, the
2 likelihood of finding a permanent home for the sibling group,
3 whether the sibling group is currently placed together in a
4 preadoptive home or has a concurrent plan goal of legal
5 permanency in the same home, the wishes of each child whose
6 age and physical and emotional condition permits a meaningful
7 response, and the best interest of each child in the sibling group.
8 The court shall specify the factual basis for its finding that it is in
9 the best interest of each child to schedule a hearing pursuant to
10 Section 366.26 in 120 days for some or all of the members of the
11 sibling group.

12 If the child was removed initially under subdivision (g) of
13 Section 300 and the court finds by clear and convincing evidence
14 that the whereabouts of the parent are still unknown, or the parent
15 has failed to contact and visit the child, the court may schedule a
16 hearing pursuant to Section 366.26 within 120 days. The court
17 shall take into account any particular barriers to a parent's ability
18 to maintain contact with his or her child due to the parent's
19 incarceration or institutionalization. If the court finds by clear and
20 convincing evidence that the parent has been convicted of a felony
21 indicating parental unfitness, the court may schedule a hearing
22 pursuant to Section 366.26 within 120 days.

23 If the child had been placed under court supervision with a
24 previously noncustodial parent pursuant to Section 361.2, the court
25 shall determine whether supervision is still necessary. The court
26 may terminate supervision and transfer permanent custody to that
27 parent, as provided for by paragraph (1) of subdivision (b) of
28 Section 361.2.

29 In all other cases, the court shall direct that any reunification
30 services previously ordered shall continue to be offered to the
31 parent or legal guardian pursuant to the time periods set forth in
32 subdivision (a) of Section 361.5, provided that the court may
33 modify the terms and conditions of those services.

34 If the child is not returned to his or her parent or legal guardian,
35 the court shall determine whether reasonable services that were
36 designed to aid the parent or legal guardian in overcoming the
37 problems that led to the initial removal and the continued custody
38 of the child have been provided or offered to the parent or legal
39 guardian. The court shall order that those services be initiated,
40 continued, or terminated.

1 (f) The permanency hearing shall be held no later than 12
2 months after the date the child entered foster care, as that date is
3 determined pursuant to Section 361.49. At the permanency hearing,
4 the court shall determine the permanent plan for the child, which
5 shall include a determination of whether the child will be returned
6 to the child's home and, if so, when, within the time limits of
7 subdivision (a) of Section 361.5. The court shall order the return
8 of the child to the physical custody of his or her parent or legal
9 guardian unless the court finds, by a preponderance of the evidence,
10 that the return of the child to his or her parent or legal guardian
11 would create a substantial risk of detriment to the safety, protection,
12 or physical or emotional well-being of the child. The social worker
13 shall have the burden of establishing that detriment. At the
14 permanency hearing, the court shall consider the criminal history,
15 obtained pursuant to paragraph (1) of subdivision (f) of Section
16 16504.5, of the parent or legal guardian subsequent to the child's
17 removal to the extent that the criminal record is substantially related
18 to the welfare of the child or the parent or legal guardian's ability
19 to exercise custody and control regarding his or her child, provided
20 that the parent or legal guardian agreed to submit fingerprint images
21 to obtain criminal history information as part of the case plan. The
22 court shall also determine whether reasonable services that were
23 designed to aid the parent or legal guardian to overcome the
24 problems that led to the initial removal and continued custody of
25 the child have been provided or offered to the parent or legal
26 guardian. For each youth 16 years of age and older, the court shall
27 also determine whether services have been made available to assist
28 him or her in making the transition from foster care to independent
29 living. The failure of the parent or legal guardian to participate
30 regularly and make substantive progress in court-ordered treatment
31 programs shall be prima facie evidence that return would be
32 detrimental. In making its determination, the court shall review
33 and consider the social worker's report and recommendations and
34 the report and recommendations of any child advocate appointed
35 pursuant to Section 356.5, shall consider the efforts or progress,
36 or both, demonstrated by the parent or legal guardian and the extent
37 to which he or she availed himself or herself of services provided,
38 taking into account the particular barriers to an incarcerated or
39 institutionalized parent or legal guardian's access to those
40 court-mandated services and ability to maintain contact with his

1 or her child and shall make appropriate findings pursuant to
2 subdivision (a) of Section 366.

3 Regardless of whether the child is returned to his or her parent
4 or legal guardian, the court shall specify the factual basis for its
5 decision. If the child is not returned to a parent or legal guardian,
6 the court shall specify the factual basis for its conclusion that the
7 return would be detrimental. The court also shall make a finding
8 pursuant to subdivision (a) of Section 366. If the child is not
9 returned to his or her parent or legal guardian, the court shall
10 consider, and state for the record, in-state and out-of-state
11 placement options. If the child is placed out of the state, the court
12 shall make a determination whether the out-of-state placement
13 continues to be appropriate and in the best interests of the child.

14 (g) If the time period in which the court-ordered services were
15 provided has met or exceeded the time period set forth in
16 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
17 of Section 361.5, as appropriate, and a child is not returned to the
18 custody of a parent or legal guardian at the permanency hearing
19 held pursuant to subdivision (f), the court shall do one of the
20 following:

21 (1) Continue the case for up to six months for a permanency
22 review hearing, provided that the hearing shall occur within 18
23 months of the date the child was originally taken from the physical
24 custody of his or her parent or legal guardian. The court shall
25 continue the case only if it finds that there is a substantial
26 probability that the child will be returned to the physical custody
27 of his or her parent or legal guardian and safely maintained in the
28 home within the extended period of time or that reasonable services
29 have not been provided to the parent or legal guardian. For the
30 purposes of this section, in order to find a substantial probability
31 that the child will be returned to the physical custody of his or her
32 parent or legal guardian and safely maintained in the home within
33 the extended period of time, the court shall be required to find all
34 of the following:

35 (A) That the parent or legal guardian has consistently and
36 regularly contacted and visited with the child.

37 (B) That the parent or legal guardian has made significant
38 progress in resolving problems that led to the child's removal from
39 the home.

1 (C) The parent or legal guardian has demonstrated the capacity
2 and ability both to complete the objectives of his or her treatment
3 plan and to provide for the child's safety, protection, physical and
4 emotional well-being, and special needs.

5 For purposes of this subdivision, the court's decision to continue
6 the case based on a finding or substantial probability that the child
7 will be returned to the physical custody of his or her parent or legal
8 guardian is a compelling reason for determining that a hearing
9 held pursuant to Section 366.26 is not in the best interests of the
10 child.

11 The court shall inform the parent or legal guardian that if the
12 child cannot be returned home by the next permanency review
13 hearing, a proceeding pursuant to Section 366.26 may be instituted.
14 The court may not order that a hearing pursuant to Section 366.26
15 be held unless there is clear and convincing evidence that
16 reasonable services have been provided or offered to the parent or
17 legal guardian.

18 (2) Order that a hearing be held within 120 days, pursuant to
19 Section 366.26, but only if the court does not continue the case to
20 the permanency planning review hearing and there is clear and
21 convincing evidence that reasonable services have been provided
22 or offered to the parents or legal guardians. On or after January 1,
23 2012, a hearing pursuant to Section 366.26 shall not be ordered if
24 the child is a nonminor dependent.

25 (3) Order that the child remain in long-term foster care, but only
26 if the court finds by clear and convincing evidence, based upon
27 the evidence already presented to it, including a recommendation
28 by the State Department of Social Services when it is acting as an
29 adoption agency in counties that are not served by a county
30 adoption agency or by a licensed county adoption agency, that
31 there is a compelling reason for determining that a hearing held
32 pursuant to Section 366.26 is not in the best interest of the child
33 because the child is not a proper subject for adoption and has no
34 one willing to accept legal guardianship. For purposes of this
35 section, a recommendation by the State Department of Social
36 Services when it is acting as an adoption agency in counties that
37 are not served by a county adoption agency or by a licensed county
38 adoption agency that adoption is not in the best interest of the child
39 shall constitute a compelling reason for the court's determination.
40 That recommendation shall be based on the present circumstances

1 of the child and shall not preclude a different recommendation at
2 a later date if the child's circumstances change. On and after
3 January 1, 2012, the nonminor dependent's legal status as an adult
4 is in and of itself a compelling reason not to hold a hearing pursuant
5 to Section 366.26. The court may order that a nonminor dependent
6 who otherwise meets the criteria described in Section 11403 remain
7 in a planned, permanent living arrangement.

8 If the court orders that a child who is 10 years of age or older
9 remain in long-term foster care, the court shall determine whether
10 the agency has made reasonable efforts to maintain the child's
11 relationships with individuals other than the child's siblings who
12 are important to the child, consistent with the child's best interests,
13 and may make any appropriate order to ensure that those
14 relationships are maintained.

15 If the child is not returned to his or her parent or legal guardian,
16 the court shall consider, and state for the record, in-state and
17 out-of-state options for permanent placement. If the child is placed
18 out of the state, the court shall make a determination whether the
19 out-of-state placement continues to be appropriate and in the best
20 interests of the child.

21 (h) In any case in which the court orders that a hearing pursuant
22 to Section 366.26 shall be held, it shall also order the termination
23 of reunification services to the parent or legal guardian. The court
24 shall continue to permit the parent or legal guardian to visit the
25 child pending the hearing unless it finds that visitation would be
26 detrimental to the child. The court shall make any other appropriate
27 orders to enable the child to maintain relationships with individuals,
28 other than the child's siblings, who are important to the child,
29 consistent with the child's best interests.

30 (i) (1) Whenever a court orders that a hearing pursuant to
31 Section 366.26 shall be held, it shall direct the agency supervising
32 the child and the licensed county adoption agency, or the State
33 Department of Social Services when it is acting as an adoption
34 agency in counties that are not served by a county adoption agency,
35 to prepare an assessment that shall include:

36 (A) Current search efforts for an absent parent or parents or
37 legal guardians.

38 (B) A review of the amount of and nature of any contact between
39 the child and his or her parents or legal guardians and other
40 members of his or her extended family since the time of placement.

1 Although the extended family of each child shall be reviewed on
2 a case-by-case basis, “extended family” for the purpose of this
3 subparagraph shall include, but not be limited to, the child’s
4 siblings, grandparents, aunts, and uncles.

5 (C) An evaluation of the child’s medical, developmental,
6 scholastic, mental, and emotional status.

7 (D) A preliminary assessment of the eligibility and commitment
8 of any identified prospective adoptive parent or legal guardian,
9 particularly the caretaker, to include a social history including
10 screening for criminal records and prior referrals for child abuse
11 or neglect, the capability to meet the child’s needs, and the
12 understanding of the legal and financial rights and responsibilities
13 of adoption and guardianship. If a proposed guardian is a relative
14 of the minor, the assessment shall also consider, but need not be
15 limited to, all of the factors specified in subdivision (a) of Section
16 361.3 and in Section 361.4.

17 (E) The relationship of the child to any identified prospective
18 adoptive parent or legal guardian, the duration and character of
19 the relationship, the degree of attachment of the child to the
20 prospective relative guardian or adoptive parent, the relative’s or
21 adoptive parent’s strong commitment to caring permanently for
22 the child, the motivation for seeking adoption or guardianship, a
23 statement from the child concerning placement and the adoption
24 or guardianship, and whether the child, if over 12 years of age,
25 has been consulted about the proposed relative guardianship
26 arrangements, unless the child’s age or physical, emotional, or
27 other condition precludes his or her meaningful response, and if
28 so, a description of the condition.

29 (F) A description of efforts to be made to identify a prospective
30 adoptive parent or legal guardian, including, but not limited to,
31 child-specific recruitment and listing on an adoption exchange
32 within the state or out of the state.

33 (G) An analysis of the likelihood that the child will be adopted
34 if parental rights are terminated.

35 (2) (A) A relative caregiver’s preference for legal guardianship
36 over adoption, if it is due to circumstances that do not include an
37 unwillingness to accept legal or financial responsibility for the
38 child, shall not constitute the sole basis for recommending removal
39 of the child from the relative caregiver for purposes of adoptive
40 placement.

1 (B) A relative caregiver shall be given information regarding
2 the permanency options of guardianship and adoption, including
3 the long-term benefits and consequences of each option, prior to
4 establishing legal guardianship or pursuing adoption.

5 (j) If, at any hearing held pursuant to Section 366.26, a
6 guardianship is established for the minor with a an approved
7 relative caregiver, and juvenile court dependency is subsequently
8 dismissed, the minor shall be eligible for aid under the Kin-GAP
9 Program, as provided for in Article 4.5 (commencing with Section
10 11360) or Article 4.7 (commencing with Section 11385), as
11 applicable, of Chapter 2 of Part 3 of Division 9.

12 (k) As used in this section, “relative” means an adult who is
13 related to the minor by blood, adoption, or affinity within the fifth
14 degree of kinship, including stepparents, stepsiblings, and all
15 relatives whose status is preceded by the words “great,”
16 “great-great,” or “grand,” or the spouse of any of those persons
17 even if the marriage was terminated by death or dissolution.

18 (l) For purposes of this section, evidence of any of the following
19 circumstances may not, in and of itself, be deemed a failure to
20 provide or offer reasonable services:

21 (1) The child has been placed with a foster family that is eligible
22 to adopt a child, or has been placed in a preadoptive home.

23 (2) The case plan includes services to make and finalize a
24 permanent placement for the child if efforts to reunify fail.

25 (3) Services to make and finalize a permanent placement for
26 the child, if efforts to reunify fail, are provided concurrently with
27 services to reunify the family.

28 (m) The implementation and operation of the amendments to
29 subdivisions (c) and (g) enacted at the 2005–06 Regular Session
30 shall be subject to appropriation through the budget process and
31 by phase, as provided in Section 366.35.

32 (n) This section shall become operative on January 1, 2014.

33 SEC. 18. Section 366.22 of the Welfare and Institutions Code,
34 as amended by Section 10 of Chapter 287 of the Statutes of 2009,
35 is amended to read:

36 366.22. (a) When a case has been continued pursuant to
37 paragraph (1) of subdivision (g) of Section 366.21, the permanency
38 review hearing shall occur within 18 months after the date the
39 child was originally removed from the physical custody of his or
40 her parent or legal guardian. The court shall order the return of the

1 child to the physical custody of his or her parent or legal guardian
2 unless the court finds, by a preponderance of the evidence, that
3 the return of the child to his or her parent or legal guardian would
4 create a substantial risk of detriment to the safety, protection, or
5 physical or emotional well-being of the child. The social worker
6 shall have the burden of establishing that detriment. At the
7 permanency review hearing, the court shall consider the criminal
8 history, obtained pursuant to paragraph (1) of subdivision (f) of
9 Section 16504.5, of the parent or legal guardian subsequent to the
10 child's removal, to the extent that the criminal record is
11 substantially related to the welfare of the child or the parent's or
12 legal guardian's ability to exercise custody and control regarding
13 his or her child, provided that the parent or legal guardian agreed
14 to submit fingerprint images to obtain criminal history information
15 as part of the case plan. The failure of the parent or legal guardian
16 to participate regularly and make substantive progress in
17 court-ordered treatment programs shall be prima facie evidence
18 that return would be detrimental. In making its determination, the
19 court shall review and consider the social worker's report and
20 recommendations and the report and recommendations of any child
21 advocate appointed pursuant to Section 356.5; shall consider the
22 efforts or progress, or both, demonstrated by the parent or legal
23 guardian and the extent to which he or she availed himself or
24 herself of services provided, taking into account the particular
25 barriers of an incarcerated or institutionalized parent or legal
26 guardian's access to those court-mandated services and ability to
27 maintain contact with his or her child; and shall make appropriate
28 findings pursuant to subdivision (a) of Section 366.

29 Whether or not the child is returned to his or her parent or legal
30 guardian, the court shall specify the factual basis for its decision.
31 If the child is not returned to a parent or legal guardian, the court
32 shall specify the factual basis for its conclusion that return would
33 be detrimental. If the child is not returned to his or her parent or
34 legal guardian, the court shall consider, and state for the record,
35 in-state and out-of-state options for the child's permanent
36 placement. If the child is placed out of the state, the court shall
37 make a determination whether the out-of-state placement continues
38 to be appropriate and in the best interests of the child.

39 Unless the conditions in subdivision (b) are met and the child is
40 not returned to a parent or legal guardian at the permanency review

1 hearing, the court shall order that a hearing be held pursuant to
2 Section 366.26 in order to determine whether adoption, or, in the
3 case of an Indian child, in consultation with the child's tribe, tribal
4 customary adoption, guardianship, or long-term foster care is the
5 most appropriate plan for the child. On and after January 1, 2012,
6 a hearing pursuant to Section 366.26 shall not be ordered if the
7 child is a nonminor dependent. However, if the court finds by clear
8 and convincing evidence, based on the evidence already presented
9 to it, including a recommendation by the State Department of
10 Social Services when it is acting as an adoption agency in counties
11 that are not served by a county adoption agency or by a licensed
12 county adoption agency, that there is a compelling reason, as
13 described in paragraph (3) of subdivision (g) of Section 366.21,
14 for determining that a hearing held under Section 366.26 is not in
15 the best interest of the child because the child is not a proper
16 subject for adoption and has no one willing to accept legal
17 guardianship, then the court may, only under these circumstances,
18 order that the child remain in long-term foster care. On and after
19 January 1, 2012, the nonminor dependent's legal status as an adult
20 is in and of itself a compelling reason not to hold a hearing pursuant
21 to Section 366.26. The court may order that a nonminor dependent
22 who otherwise meets the criteria described in Section 11403 remain
23 in a planned, permanent living arrangement. If the court orders
24 that a child who is 10 years of age or older remain in long-term
25 foster care, the court shall determine whether the agency has made
26 reasonable efforts to maintain the child's relationships with
27 individuals other than the child's siblings who are important to the
28 child, consistent with the child's best interests, and may make any
29 appropriate order to ensure that those relationships are maintained.
30 The hearing shall be held no later than 120 days from the date of
31 the permanency review hearing. The court shall also order
32 termination of reunification services to the parent or legal guardian.
33 The court shall continue to permit the parent or legal guardian to
34 visit the child unless it finds that visitation would be detrimental
35 to the child. The court shall determine whether reasonable services
36 have been offered or provided to the parent or legal guardian. For
37 purposes of this subdivision, evidence of any of the following
38 circumstances shall not, in and of themselves, be deemed a failure
39 to provide or offer reasonable services:

1 (1) The child has been placed with a foster family that is eligible
2 to adopt a child, or has been placed in a preadoptive home.

3 (2) The case plan includes services to make and finalize a
4 permanent placement for the child if efforts to reunify fail.

5 (3) Services to make and finalize a permanent placement for
6 the child, if efforts to reunify fail, are provided concurrently with
7 services to reunify the family.

8 (b) If the child is not returned to a parent or legal guardian at
9 the permanency review hearing and the court determines by clear
10 and convincing evidence that the best interests of the child would
11 be met by the provision of additional reunification services to a
12 parent or legal guardian who is making significant and consistent
13 progress in a *court-ordered residential* substance abuse treatment
14 program, or a parent recently discharged from incarceration or
15 institutionalization and making significant and consistent progress
16 in establishing a safe home for the child's return, the court may
17 continue the case for up to six months for a subsequent permanency
18 review hearing, provided that the hearing shall occur within 24
19 months of the date the child was originally taken from the physical
20 custody of his or her parent or legal guardian. The court shall
21 continue the case only if it finds that there is a substantial
22 probability that the child will be returned to the physical custody
23 of his or her parent or legal guardian and safely maintained in the
24 home within the extended period of time or that reasonable services
25 have not been provided to the parent or legal guardian. For the
26 purposes of this section, in order to find a substantial probability
27 that the child will be returned to the physical custody of his or her
28 parent or legal guardian and safely maintained in the home within
29 the extended period of time, the court shall be required to find all
30 of the following:

31 (1) That the parent or legal guardian has consistently and
32 regularly contacted and visited with the child.

33 (2) That the parent or legal guardian has made significant and
34 consistent progress in the prior 18 months in resolving problems
35 that led to the child's removal from the home.

36 (3) The parent or legal guardian has demonstrated the capacity
37 and ability both to complete the objectives of his or her substance
38 abuse treatment plan as evidenced by reports from a substance
39 abuse provider as applicable, or complete a treatment plan
40 postdischarge from incarceration or institutionalization, and to

1 provide for the child's safety, protection, physical and emotional
2 well-being, and special needs.

3 For purposes of this subdivision, the court's decision to continue
4 the case based on a finding or substantial probability that the child
5 will be returned to the physical custody of his or her parent or legal
6 guardian is a compelling reason for determining that a hearing
7 held pursuant to Section 366.26 is not in the best interests of the
8 child.

9 The court shall inform the parent or legal guardian that if the
10 child cannot be returned home by the subsequent permanency
11 review hearing, a proceeding pursuant to Section 366.26 may be
12 instituted. The court may not order that a hearing pursuant to
13 Section 366.26 be held unless there is clear and convincing
14 evidence that reasonable services have been provided or offered
15 to the parent or legal guardian.

16 (c) (1) Whenever a court orders that a hearing pursuant to
17 Section 366.26, including when a tribal customary adoption is
18 recommended, shall be held, it shall direct the agency supervising
19 the child and the licensed county adoption agency, or the State
20 Department of Social Services when it is acting as an adoption
21 agency in counties that are not served by a county adoption agency,
22 to prepare an assessment that shall include:

23 (A) Current search efforts for an absent parent or parents.

24 (B) A review of the amount of and nature of any contact between
25 the child and his or her parents and other members of his or her
26 extended family since the time of placement. Although the
27 extended family of each child shall be reviewed on a case-by-case
28 basis, "extended family" for the purposes of this subparagraph
29 shall include, but not be limited to, the child's siblings,
30 grandparents, aunts, and uncles.

31 (C) An evaluation of the child's medical, developmental,
32 scholastic, mental, and emotional status.

33 (D) A preliminary assessment of the eligibility and commitment
34 of any identified prospective adoptive parent or legal guardian,
35 particularly the caretaker, to include a social history including
36 screening for criminal records and prior referrals for child abuse
37 or neglect, the capability to meet the child's needs, and the
38 understanding of the legal and financial rights and responsibilities
39 of adoption and guardianship. If a proposed legal guardian is a
40 relative of the minor, the assessment shall also consider, but need

1 not be limited to, all of the factors specified in subdivision (a) of
2 Section 361.3 and Section 361.4.

3 (E) The relationship of the child to any identified prospective
4 adoptive parent or legal guardian, the duration and character of
5 the relationship, the degree of attachment of the child to the
6 prospective relative guardian or adoptive parent, the relative's or
7 adoptive parent's strong commitment to caring permanently for
8 the child, the motivation for seeking adoption or legal guardianship,
9 a statement from the child concerning placement and the adoption
10 or legal guardianship, and whether the child, if over 12 years of
11 age, has been consulted about the proposed relative guardianship
12 arrangements, unless the child's age or physical, emotional, or
13 other condition precludes his or her meaningful response, and if
14 so, a description of the condition.

15 (F) An analysis of the likelihood that the child will be adopted
16 if parental rights are terminated.

17 (G) In the case of an Indian child, in addition to subparagraphs
18 (A) to (F), inclusive, an assessment of the likelihood that the child
19 will be adopted, when, in consultation with the child's tribe, a
20 customary tribal adoption, as defined in Section 366.24, is
21 recommended. If tribal customary adoption is recommended, the
22 assessment shall include an analysis of both of the following:

23 (i) Whether tribal customary adoption would or would not be
24 detrimental to the Indian child and the reasons for reaching that
25 conclusion.

26 (ii) Whether the Indian child cannot or should not be returned
27 to the home of the Indian parent or Indian custodian and the reasons
28 for reaching that conclusion.

29 (2) (A) A relative caregiver's preference for legal guardianship
30 over adoption, if it is due to circumstances that do not include an
31 unwillingness to accept legal or financial responsibility for the
32 child, shall not constitute the sole basis for recommending removal
33 of the child from the relative caregiver for purposes of adoptive
34 placement.

35 (B) A relative caregiver shall be given information regarding
36 the permanency options of guardianship and adoption, including
37 the long-term benefits and consequences of each option, prior to
38 establishing legal guardianship or pursuing adoption.

39 (d) This section shall become operative January 1, 1999. If at
40 any hearing held pursuant to Section 366.26, a legal guardianship

1 is established for the minor with an approved relative caregiver,
2 and juvenile court dependency is subsequently dismissed, the
3 ~~relative~~ *minor* shall be eligible for aid under the Kin-GAP Program,
4 as provided for in Article 4.5 (commencing with Section 11360)
5 or Article 4.7 (commencing with Section 11385), as applicable,
6 of Chapter 2 of Part 3 of Division 9.

7 (e) As used in this section, “relative” means an adult who is
8 related to the child by blood, adoption, or affinity within the fifth
9 degree of kinship, including stepparents, stepsiblings, and all
10 relatives whose status is preceded by the words “great,”
11 “great-great,” or “grand,” or the spouse of any of those persons
12 even if the marriage was terminated by death or dissolution.

13 (f) The implementation and operation of the amendments to
14 subdivision (a) enacted at the 2005–06 Regular Session shall be
15 subject to appropriation through the budget process and by phase,
16 as provided in Section 366.35.

17 (g) This section shall remain in effect only until January 1, 2014,
18 and as of that date is repealed, unless a later enacted statute, that
19 is enacted before January 1, 2014, deletes or extends that date.

20 SEC. 19. Section 366.22 of the Welfare and Institutions Code,
21 as added by Section 11 of Chapter 287 of the Statutes of 2009, is
22 amended to read:

23 366.22. (a) When a case has been continued pursuant to
24 paragraph (1) of subdivision (g) of Section 366.21, the permanency
25 review hearing shall occur within 18 months after the date the
26 child was originally removed from the physical custody of his or
27 her parent or legal guardian. The court shall order the return of the
28 child to the physical custody of his or her parent or legal guardian
29 unless the court finds, by a preponderance of the evidence, that
30 the return of the child to his or her parent or legal guardian would
31 create a substantial risk of detriment to the safety, protection, or
32 physical or emotional well-being of the child. The social worker
33 shall have the burden of establishing that detriment. At the
34 permanency review hearing, the court shall consider the criminal
35 history, obtained pursuant to paragraph (1) of subdivision (f) of
36 Section 16504.5, of the parent or legal guardian subsequent to the
37 child’s removal, to the extent that the criminal record is
38 substantially related to the welfare of the child or the parent’s or
39 legal guardian’s ability to exercise custody and control regarding
40 his or her child, provided that the parent or legal guardian agreed

1 to submit fingerprint images to obtain criminal history information
2 as part of the case plan. The failure of the parent or legal guardian
3 to participate regularly and make substantive progress in
4 court-ordered treatment programs shall be prima facie evidence
5 that return would be detrimental. In making its determination, the
6 court shall review and consider the social worker's report and
7 recommendations and the report and recommendations of any child
8 advocate appointed pursuant to Section 356.5; shall consider the
9 efforts or progress, or both, demonstrated by the parent or legal
10 guardian and the extent to which he or she availed himself or
11 herself of services provided, taking into account the particular
12 barriers of an incarcerated or institutionalized parent or legal
13 guardian's access to those court-mandated services and ability to
14 maintain contact with his or her child; and shall make appropriate
15 findings pursuant to subdivision (a) of Section 366.

16 Whether or not the child is returned to his or her parent or legal
17 guardian, the court shall specify the factual basis for its decision.
18 If the child is not returned to a parent or legal guardian, the court
19 shall specify the factual basis for its conclusion that return would
20 be detrimental. If the child is not returned to his or her parent or
21 legal guardian, the court shall consider, and state for the record,
22 in-state and out-of-state options for the child's permanent
23 placement. If the child is placed out of the state, the court shall
24 make a determination whether the out-of-state placement continues
25 to be appropriate and in the best interests of the child.

26 Unless the conditions in subdivision (b) are met and the child is
27 not returned to a parent or legal guardian at the permanency review
28 hearing, the court shall order that a hearing be held pursuant to
29 Section 366.26 in order to determine whether adoption,
30 guardianship, or long-term foster care is the most appropriate plan
31 for the child. On and after January 1, 2012, a hearing pursuant to
32 Section 366.26 shall not be ordered if the child is a nonminor
33 dependent. However, if the court finds by clear and convincing
34 evidence, based on the evidence already presented to it, including
35 a recommendation by the State Department of Social Services
36 when it is acting as an adoption agency in counties that are not
37 served by a county adoption agency or by a licensed county
38 adoption agency, that there is a compelling reason, as described
39 in paragraph (3) of subdivision (g) of Section 366.21, for
40 determining that a hearing held under Section 366.26 is not in the

1 best interest of the child because the child is not a proper subject
2 for adoption and has no one willing to accept legal guardianship,
3 then the court may, only under these circumstances, order that the
4 child remain in long-term foster care. On and after January 1, 2012,
5 the nonminor dependent's legal status as an adult is in and of itself
6 a compelling reason not to hold a hearing pursuant to Section
7 366.26. The court may order that a nonminor dependent who
8 otherwise meets the criteria described in Section 11403 remain in
9 a planned, permanent living arrangement. If the court orders that
10 a child who is 10 years of age or older remain in long-term foster
11 care, the court shall determine whether the agency has made
12 reasonable efforts to maintain the child's relationships with
13 individuals other than the child's siblings who are important to the
14 child, consistent with the child's best interests, and may make any
15 appropriate order to ensure that those relationships are maintained.
16 The hearing shall be held no later than 120 days from the date of
17 the permanency review hearing. The court shall also order
18 termination of reunification services to the parent or legal guardian.
19 The court shall continue to permit the parent or legal guardian to
20 visit the child unless it finds that visitation would be detrimental
21 to the child. The court shall determine whether reasonable services
22 have been offered or provided to the parent or legal guardian. For
23 purposes of this subdivision, evidence of any of the following
24 circumstances shall not, in and of themselves, be deemed a failure
25 to provide or offer reasonable services:

26 (1) The child has been placed with a foster family that is eligible
27 to adopt a child, or has been placed in a preadoptive home.

28 (2) The case plan includes services to make and finalize a
29 permanent placement for the child if efforts to reunify fail.

30 (3) Services to make and finalize a permanent placement for
31 the child, if efforts to reunify fail, are provided concurrently with
32 services to reunify the family.

33 (b) If the child is not returned to a parent or legal guardian at
34 the permanency review hearing and the court determines by clear
35 and convincing evidence that the best interests of the child would
36 be met by the provision of additional reunification services to a
37 parent or legal guardian who is making significant and consistent
38 progress in a *court-ordered residential* substance abuse treatment
39 program, or a parent recently discharged from incarceration or
40 institutionalization and making significant and consistent progress

1 in establishing a safe home for the child's return, the court may
2 continue the case for up to six months for a subsequent permanency
3 review hearing, provided that the hearing shall occur within 24
4 months of the date the child was originally taken from the physical
5 custody of his or her parent or legal guardian. The court shall
6 continue the case only if it finds that there is a substantial
7 probability that the child will be returned to the physical custody
8 of his or her parent or legal guardian and safely maintained in the
9 home within the extended period of time or that reasonable services
10 have not been provided to the parent or legal guardian. For the
11 purposes of this section, in order to find a substantial probability
12 that the child will be returned to the physical custody of his or her
13 parent or legal guardian and safely maintained in the home within
14 the extended period of time, the court shall be required to find all
15 of the following:

16 (1) That the parent or legal guardian has consistently and
17 regularly contacted and visited with the child.

18 (2) That the parent or legal guardian has made significant and
19 consistent progress in the prior 18 months in resolving problems
20 that led to the child's removal from the home.

21 (3) The parent or legal guardian has demonstrated the capacity
22 and ability both to complete the objectives of his or her substance
23 abuse treatment plan as evidenced by reports from a substance
24 abuse provider as applicable, or complete a treatment plan
25 postdischarge from incarceration or institutionalization, and to
26 provide for the child's safety, protection, physical and emotional
27 well-being, and special needs.

28 For purposes of this subdivision, the court's decision to continue
29 the case based on a finding or substantial probability that the child
30 will be returned to the physical custody of his or her parent or legal
31 guardian is a compelling reason for determining that a hearing
32 held pursuant to Section 366.26 is not in the best interests of the
33 child.

34 The court shall inform the parent or legal guardian that if the
35 child cannot be returned home by the subsequent permanency
36 review hearing, a proceeding pursuant to Section 366.26 may be
37 instituted. The court may not order that a hearing pursuant to
38 Section 366.26 be held unless there is clear and convincing
39 evidence that reasonable services have been provided or offered
40 to the parent or legal guardian.

1 (c) (1) Whenever a court orders that a hearing pursuant to
2 Section 366.26 shall be held, it shall direct the agency supervising
3 the child and the licensed county adoption agency, or the State
4 Department of Social Services when it is acting as an adoption
5 agency in counties that are not served by a county adoption agency,
6 to prepare an assessment that shall include:

7 (A) Current search efforts for an absent parent or parents.

8 (B) A review of the amount of and nature of any contact between
9 the child and his or her parents and other members of his or her
10 extended family since the time of placement. Although the
11 extended family of each child shall be reviewed on a case-by-case
12 basis, “extended family” for the purposes of this subparagraph
13 shall include, but not be limited to, the child’s siblings,
14 grandparents, aunts, and uncles.

15 (C) An evaluation of the child’s medical, developmental,
16 scholastic, mental, and emotional status.

17 (D) A preliminary assessment of the eligibility and commitment
18 of any identified prospective adoptive parent or legal guardian,
19 particularly the caretaker, to include a social history including
20 screening for criminal records and prior referrals for child abuse
21 or neglect, the capability to meet the child’s needs, and the
22 understanding of the legal and financial rights and responsibilities
23 of adoption and guardianship. If a proposed legal guardian is a
24 relative of the minor, the assessment shall also consider, but need
25 not be limited to, all of the factors specified in subdivision (a) of
26 Section 361.3 and Section 361.4.

27 (E) The relationship of the child to any identified prospective
28 adoptive parent or legal guardian, the duration and character of
29 the relationship, the degree of attachment of the child to the
30 prospective relative guardian or adoptive parent, the relative’s or
31 adoptive parent’s strong commitment to caring permanently for
32 the child, the motivation for seeking adoption or legal guardianship,
33 a statement from the child concerning placement and the adoption
34 or legal guardianship, and whether the child, if over 12 years of
35 age, has been consulted about the proposed relative guardianship
36 arrangements, unless the child’s age or physical, emotional, or
37 other condition precludes his or her meaningful response, and if
38 so, a description of the condition.

39 (F) An analysis of the likelihood that the child will be adopted
40 if parental rights are terminated.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption.

(d) This section shall become operative January 1, 1999. If at any hearing held pursuant to Section 366.26, a legal guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(e) As used in this section, "relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(f) The implementation and operation of the amendments to subdivision (a) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

(g) This section shall become operative on January 1, 2014.

SEC. 20. Section 366.25 of the Welfare and Institutions Code, as amended by Section 13 of Chapter 287 of the Statutes of 2009, is amended to read:

366.25. (a) (1) When a case has been continued pursuant to subdivision (b) of Section 366.22, the subsequent permanency review hearing shall occur within 24 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would

1 create a substantial risk of detriment to the safety, protection, or
2 physical or emotional well-being of the child. The social worker
3 shall have the burden of establishing that detriment. At the
4 subsequent permanency review hearing, the court shall consider
5 the criminal history, obtained pursuant to paragraph (1) of
6 subdivision (f) of Section 16504.5, of the parent or legal guardian
7 subsequent to the child's removal to the extent that the criminal
8 record is substantially related to the welfare of the child or parent
9 or legal guardian's ability to exercise custody and control regarding
10 his or her child provided that the parent or legal guardian agreed
11 to submit fingerprint images to obtain criminal history information
12 as part of the case plan. The failure of the parent or legal guardian
13 to participate regularly and make substantive progress in
14 court-ordered treatment programs shall be prima facie evidence
15 that return would be detrimental. In making its determination, the
16 court shall review and consider the social worker's report and
17 recommendations and the report and recommendations of any child
18 advocate appointed pursuant to Section 356.5; shall consider the
19 efforts or progress, or both, demonstrated by the parent or legal
20 guardian and the extent to which he or she availed himself or
21 herself of services provided; and shall make appropriate findings
22 pursuant to subdivision (a) of Section 366.

23 (2) Whether or not the child is returned to his or her parent or
24 legal guardian, the court shall specify the factual basis for its
25 decision. If the child is not returned to a parent or legal guardian,
26 the court shall specify the factual basis for its conclusion that return
27 would be detrimental. If the child is not returned to his or her
28 parents or legal guardian, the court shall consider and state for the
29 record, in-state and out-of-state options for the child's permanent
30 placement. If the child is placed out of the state, the court shall
31 make a determination whether the out-of-state placement continues
32 to be appropriate and in best interests of the child.

33 (3) If the child is not returned to a parent or legal guardian at
34 the subsequent permanency review hearing, the court shall order
35 that a hearing be held pursuant to Section 366.26 in order to
36 determine whether adoption, or, in the case of an Indian child,
37 tribal customary adoption, guardianship, or long-term foster care
38 is the most appropriate plan for the child. On and after January 1,
39 2012, a hearing pursuant to Section 366.26 shall not be ordered if
40 the child is a nonminor dependent. However, if the court finds by

1 clear and convincing evidence, based on the evidence already
2 presented to it, including a recommendation by the State
3 Department of Social Services when it is acting as an adoption
4 agency in counties that are not served by a county adoption agency
5 or by a licensed county adoption agency, that there is a compelling
6 reason, as described in paragraph (3) of subdivision (g) of Section
7 366.21, for determining that a hearing held under Section 366.26
8 is not in the best interest of the child because the child is not a
9 proper subject for adoption or, in the case of an Indian child, tribal
10 customary adoption, and has no one willing to accept legal
11 guardianship, then the court may, only under these circumstances,
12 order that the child remain in long-term foster care. On and after
13 January 1, 2012, the nonminor dependent's legal status as an adult
14 is in and of itself a compelling reason not to hold a hearing pursuant
15 to Section 366.26. The court may order that a nonminor dependent
16 who otherwise meets the criteria described in Section 11403 remain
17 in a planned, permanent living arrangement. If the court orders
18 that a child who is 10 years of age or older remain in long-term
19 foster care, the court shall determine whether the agency has made
20 reasonable efforts to maintain the child's relationships with
21 individuals other than the child's siblings who are important to the
22 child, consistent with the child's best interests, and may make any
23 appropriate order to ensure that those relationships are maintained.
24 The hearing shall be held no later than 120 days from the date of
25 the subsequent permanency review hearing. The court shall also
26 order termination of reunification services to the parent or legal
27 guardian. The court shall continue to permit the parent or legal
28 guardian to visit the child unless it finds that visitation would be
29 detrimental to the child. The court shall determine whether
30 reasonable services have been offered or provided to the parent or
31 legal guardian. For purposes of this subdivision, evidence of any
32 of the following circumstances shall not, in and of themselves, be
33 deemed a failure to provide or offer reasonable services:
34 (A) The child has been placed with a foster family that is eligible
35 to adopt a child, or has been placed in a preadoptive home.
36 (B) The case plan includes services to make and finalize a
37 permanent placement for the child if efforts to reunify fail.
38 (C) Services to make and finalize a permanent placement for
39 the child, if efforts to reunify fail, are provided concurrently with
40 services to reunify the family.

1 (b) (1) Whenever a court orders that a hearing pursuant to
2 Section 366.26 shall be held, it shall direct the agency supervising
3 the child and the licensed county adoption agency, or the State
4 Department of Social Services when it is acting as an adoption
5 agency in counties that are not served by a county adoption agency,
6 to prepare an assessment that shall include:

7 (A) Current search efforts for an absent parent or parents.

8 (B) A review of the amount of, and nature of, any contact
9 between the child and his or her parents and other members of his
10 or her extended family since the time of placement. Although the
11 extended family of each child shall be reviewed on a case-by-case
12 basis, “extended family” for the purposes of this paragraph shall
13 include, but not be limited to, the child’s siblings, grandparents,
14 aunts, and uncles.

15 (C) An evaluation of the child’s medical, developmental,
16 scholastic, mental, and emotional status.

17 (D) A preliminary assessment of the eligibility and commitment
18 of any identified prospective adoptive parent or legal guardian,
19 including a prospective tribal customary adoptive parent,
20 particularly the caretaker, to include a social history including
21 screening for criminal records and prior referrals for child abuse
22 or neglect, the capability to meet the child’s needs, and the
23 understanding of the legal and financial rights and responsibilities
24 of adoption and guardianship. If a proposed legal guardian is a
25 relative of the minor, the assessment shall also consider, but need
26 not be limited to, all of the factors specified in subdivision (a) of
27 Section 361.3 and in Section 361.4.

28 (E) The relationship of the child to any identified prospective
29 adoptive parent or legal guardian, including a prospective tribal
30 customary adoptive parent, the duration and character of the
31 relationship, the degree of attachment of the child to the prospective
32 relative guardian or adoptive parent, the relative’s or adoptive
33 parent’s strong commitment to caring permanently for the child,
34 the motivation for seeking adoption or legal guardianship, a
35 statement from the child concerning placement and the adoption
36 or legal guardianship, and whether the child, if over 12 years of
37 age, has been consulted about the proposed relative guardianship
38 arrangements, unless the child’s age or physical, emotional, or
39 other condition precludes his or her meaningful response, and if
40 so, a description of the condition.

1 (F) An analysis of the likelihood that the child will be adopted
2 if parental rights are terminated.

3 (G) In the case of an Indian child, in addition to subparagraphs
4 (A) to (F), inclusive, an assessment of the likelihood that the child
5 will be adopted, when, in consultation with the child's tribe, a
6 customary tribal adoption, as defined in Section 366.24, is
7 recommended. If tribal customary adoption is recommended, the
8 assessment shall include an analysis of both of the following:

9 (i) Whether tribal customary adoption would or would not be
10 detrimental to the Indian child and the reasons for reaching that
11 conclusion.

12 (ii) Whether the Indian child cannot or should not be returned
13 to the home of the Indian parent or Indian custodian and the reasons
14 for reaching that conclusion.

15 (2) (A) A relative caregiver's preference for legal guardianship
16 over adoption, if it is due to circumstances that do not include an
17 unwillingness to accept legal or financial responsibility for the
18 child, shall not constitute the sole basis for recommending removal
19 of the child from the relative caregiver for purposes of adoptive
20 placement.

21 (B) A relative caregiver shall be given information regarding
22 the permanency options of guardianship and adoption, including
23 the long-term benefits and consequences of each option, prior to
24 establishing legal guardianship or pursuing adoption.

25 (c) If, at any hearing held pursuant to Section 366.26, a
26 guardianship is established for the minor with an approved relative
27 caregiver, and juvenile court dependency is subsequently
28 dismissed, the minor shall be eligible for aid under the Kin-GAP
29 Program, as provided for in Article 4.5 (commencing with Section
30 11360) or Article 4.7 (commencing with Section 11385), as
31 applicable, of Chapter 2 of Part 3 of Division 9.

32 (d) As used in this section, "relative" means an adult who is
33 related to the minor by blood, adoption, or affinity within the fifth
34 degree of kinship, including stepparents, stepsiblings, and all
35 relatives whose status is preceded by the words "great,"
36 "great-great," or "grand," or the spouse of any of those persons
37 even if the marriage was terminated by death or dissolution.

38 (e) The implementation and operation of subdivision (a) enacted
39 at the 2005–06 Regular Session shall be subject to appropriation

1 through the budget process and by phase, as provided in Section
2 366.35.

3 (f) This section shall remain in effect only until January 1, 2014,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2014, deletes or extends that date.

6 SEC. 21. Section 366.25 of the Welfare and Institutions Code,
7 as added by Section 14 of Chapter 287 of the Statutes of 2009, is
8 amended to read:

9 366.25. (a) (1) When a case has been continued pursuant to
10 subdivision (b) of Section 366.22, the subsequent permanency
11 review hearing shall occur within 24 months after the date the
12 child was originally removed from the physical custody of his or
13 her parent or legal guardian. The court shall order the return of the
14 child to the physical custody of his or her parent or legal guardian
15 unless the court finds, by a preponderance of the evidence, that
16 the return of the child to his or her parent or legal guardian would
17 create a substantial risk of detriment to the safety, protection, or
18 physical or emotional well-being of the child. The social worker
19 shall have the burden of establishing that detriment. At the
20 subsequent permanency review hearing, the court shall consider
21 the criminal history, obtained pursuant to paragraph (1) of
22 subdivision (f) of Section 16504.5, of the parent or legal guardian
23 subsequent to the child's removal to the extent that the criminal
24 record is substantially related to the welfare of the child or parent
25 or legal guardian's ability to exercise custody and control regarding
26 his or her child provided that the parent or legal guardian agreed
27 to submit fingerprint images to obtain criminal history information
28 as part of the case plan. The failure of the parent or legal guardian
29 to participate regularly and make substantive progress in
30 court-ordered treatment programs shall be prima facie evidence
31 that return would be detrimental. In making its determination, the
32 court shall review and consider the social worker's report and
33 recommendations and the report and recommendations of any child
34 advocate appointed pursuant to Section 356.5; shall consider the
35 efforts or progress, or both, demonstrated by the parent or legal
36 guardian and the extent to which he or she availed himself or
37 herself of services provided; and shall make appropriate findings
38 pursuant to subdivision (a) of Section 366.

39 (2) Whether or not the child is returned to his or her parent or
40 legal guardian, the court shall specify the factual basis for its

1 decision. If the child is not returned to a parent or legal guardian,
2 the court shall specify the factual basis for its conclusion that return
3 would be detrimental. If the child is not returned to his or her
4 parents or legal guardian, the court shall consider and state for the
5 record, in-state and out-of-state options for the child's permanent
6 placement. If the child is placed out of the state, the court shall
7 make a determination whether the out-of-state placement continues
8 to be appropriate and in best interests of the child.

9 (3) If the child is not returned to a parent or legal guardian at
10 the subsequent permanency review hearing, the court shall order
11 that a hearing be held pursuant to Section 366.26 in order to
12 determine whether adoption, guardianship, or long-term foster
13 care is the most appropriate plan for the child. On and after January
14 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
15 if the child is a nonminor dependent. However, if the court finds
16 by clear and convincing evidence, based on the evidence already
17 presented to it, including a recommendation by the State
18 Department of Social Services when it is acting as an adoption
19 agency in counties that are not served by a county adoption agency
20 or by a licensed county adoption agency, that there is a compelling
21 reason, as described in paragraph (3) of subdivision (g) of Section
22 366.21, for determining that a hearing held under Section 366.26
23 is not in the best interest of the child because the child is not a
24 proper subject for adoption and has no one willing to accept legal
25 guardianship, then the court may, only under these circumstances,
26 order that the child remain in long-term foster care. On and after
27 January 1, 2012, the nonminor dependent's legal status as an adult
28 is in and of itself a compelling reason not to hold a hearing pursuant
29 to Section 366.26. The court may order that a nonminor dependent
30 who otherwise meets the criterion criteria described in Section
31 11403 remain in a planned, permanent living arrangement. If the
32 court orders that a child who is 10 years of age or older remain in
33 long-term foster care, the court shall determine whether the agency
34 has made reasonable efforts to maintain the child's relationships
35 with individuals other than the child's siblings who are important
36 to the child, consistent with the child's best interests, and may
37 make any appropriate order to ensure that those relationships are
38 maintained. The hearing shall be held no later than 120 days from
39 the date of the subsequent permanency review hearing. The court
40 shall also order termination of reunification services to the parent

1 or legal guardian. The court shall continue to permit the parent or
2 legal guardian to visit the child unless it finds that visitation would
3 be detrimental to the child. The court shall determine whether
4 reasonable services have been offered or provided to the parent or
5 legal guardian. For purposes of this subdivision, evidence of any
6 of the following circumstances shall not, in and of themselves, be
7 deemed a failure to provide or offer reasonable services:

8 (A) The child has been placed with a foster family that is eligible
9 to adopt a child, or has been placed in a preadoptive home.

10 (B) The case plan includes services to make and finalize a
11 permanent placement for the child if efforts to reunify fail.

12 (C) Services to make and finalize a permanent placement for
13 the child, if efforts to reunify fail, are provided concurrently with
14 services to reunify the family.

15 (b) (1) Whenever a court orders that a hearing pursuant to
16 Section 366.26 shall be held, it shall direct the agency supervising
17 the child and the licensed county adoption agency, or the State
18 Department of Social Services when it is acting as an adoption
19 agency in counties that are not served by a county adoption agency,
20 to prepare an assessment that shall include:

21 (A) Current search efforts for an absent parent or parents.

22 (B) A review of the amount of, and nature of, any contact
23 between the child and his or her parents and other members of his
24 or her extended family since the time of placement. Although the
25 extended family of each child shall be reviewed on a case-by-case
26 basis, "extended family" for the purposes of this paragraph shall
27 include, but not be limited to, the child's siblings, grandparents,
28 aunts, and uncles.

29 (C) An evaluation of the child's medical, developmental,
30 scholastic, mental, and emotional status.

31 (D) A preliminary assessment of the eligibility and commitment
32 of any identified prospective adoptive parent or legal guardian,
33 particularly the caretaker, to include a social history including
34 screening for criminal records and prior referrals for child abuse
35 or neglect, the capability to meet the child's needs, and the
36 understanding of the legal and financial rights and responsibilities
37 of adoption and guardianship. If a proposed legal guardian is a
38 relative of the minor, the assessment shall also consider, but need
39 not be limited to, all of the factors specified in subdivision (a) of
40 Section 361.3 and in Section 361.4.

(E) The relationship of the child to any identified prospective adoptive parent or legal guardian, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or legal guardianship, a statement from the child concerning placement and the adoption or legal guardianship, and whether the child, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption.

(c) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(d) As used in this section, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(e) The implementation and operation of subdivision (a) enacted at the 2005–06 Regular Session shall be subject to appropriation

1 through the budget process and by phase, as provided in Section
2 366.35.

3 (f) This section shall become operative on January 1, 2014.

4 SEC. 22. Section 366.3 of the Welfare and Institutions Code,
5 as amended by Section 17 of Chapter 287 of the Statutes of 2009,
6 is amended to read:

7 366.3. (a) If a juvenile court orders a permanent plan of
8 adoption, tribal customary adoption, or legal guardianship pursuant
9 to Section 360 or 366.26, the court shall retain jurisdiction over
10 the child until the child is adopted or the legal guardianship is
11 established, except as provided for in Section 366.29 or, on and
12 after January 1, 2012, Section 366.31. The status of the child shall
13 be reviewed every six months to ensure that the adoption or legal
14 guardianship is completed as expeditiously as possible. When the
15 adoption of the child has been granted, or in the case of a tribal
16 customary adoption, when the tribal customary adoption order has
17 been afforded full faith and credit and the petition for adoption
18 has been granted, the court shall terminate its jurisdiction over the
19 child. Following establishment of a legal guardianship, the court
20 may continue jurisdiction over the child as a dependent child of
21 the juvenile court or may terminate its dependency jurisdiction
22 and retain jurisdiction over the child as a ward of the legal
23 guardianship, as authorized by Section 366.4. If, however, a relative
24 of the child is appointed the legal guardian of the child and the
25 child has been placed with the relative for at least six months, the
26 court shall, except if the relative guardian objects, or upon a finding
27 of exceptional circumstances, terminate its dependency jurisdiction
28 and retain jurisdiction over the child as a ward of the guardianship,
29 as authorized by Section 366.4. Following a termination of parental
30 rights, the parent or parents shall not be a party to, or receive notice
31 of, any subsequent proceedings regarding the child.

32 (b) If the court has dismissed dependency jurisdiction following
33 the establishment of a legal guardianship, or no dependency
34 jurisdiction attached because of the granting of a legal guardianship
35 pursuant to Section 360, and the legal guardianship is subsequently
36 revoked or otherwise terminated, the county department of social
37 services or welfare department shall notify the juvenile court of
38 this fact. The court may vacate its previous order dismissing
39 dependency jurisdiction over the child.

1 Notwithstanding Section 1601 of the Probate Code, the
2 proceedings to terminate a legal guardianship that has been granted
3 pursuant to Section 360 or 366.26 shall be held either in the
4 juvenile court that retains jurisdiction over the guardianship as
5 authorized by Section 366.4 or the juvenile court in the county
6 where the guardian and child currently reside, based on the best
7 interests of the child, unless the termination is due to the
8 emancipation or adoption of the child. The juvenile court having
9 jurisdiction over the guardianship shall receive notice from the
10 court in which the petition is filed within five calendar days of the
11 filing. Prior to the hearing on a petition to terminate legal
12 guardianship pursuant to this subdivision, the court shall order the
13 county department of social services or welfare department having
14 jurisdiction or jointly with the county department where the
15 guardian and child currently reside to prepare a report, for the
16 court's consideration, that shall include an evaluation of whether
17 the child could safely remain in, or be returned to, the legal
18 guardian's home, without terminating the legal guardianship, if
19 services were provided to the child or legal guardian. If applicable,
20 the report shall also identify recommended family maintenance or
21 reunification services to maintain the legal guardianship and set
22 forth a plan for providing those services. If the petition to terminate
23 legal guardianship is granted, either juvenile court may resume
24 dependency jurisdiction over the child, and may order the county
25 department of social services or welfare department to develop a
26 new permanent plan, which shall be presented to the court within
27 60 days of the termination. If no dependency jurisdiction has
28 attached, the social worker shall make any investigation he or she
29 deems necessary to determine whether the child may be within the
30 jurisdiction of the juvenile court, as provided in Section 328.

31 Unless the parental rights of the child's parent or parents have
32 been terminated, they shall be notified that the legal guardianship
33 has been revoked or terminated and shall be entitled to participate
34 in the new permanency planning hearing. The court shall try to
35 place the child in another permanent placement. At the hearing,
36 the parents may be considered as custodians but the child shall not
37 be returned to the parent or parents unless they prove, by a
38 preponderance of the evidence, that reunification is the best
39 alternative for the child. The court may, if it is in the best interests

1 of the child, order that reunification services again be provided to
2 the parent or parents.

3 (c) If, following the establishment of a legal guardianship, the
4 county welfare department becomes aware of changed
5 circumstances that indicate adoption or, for an Indian child, tribal
6 customary adoption, may be an appropriate plan for the child, the
7 department shall so notify the court. The court may vacate its
8 previous order dismissing dependency jurisdiction over the child
9 and order that a hearing be held pursuant to Section 366.26 to
10 determine whether adoption or continued legal guardianship is the
11 most appropriate plan for the child. The hearing shall be held no
12 later than 120 days from the date of the order. If the court orders
13 that a hearing shall be held pursuant to Section 366.26, the court
14 shall direct the agency supervising the child and the licensed county
15 adoption agency, or the State Department of Social Services if it
16 is acting as an adoption agency in counties that are not served by
17 a county adoption agency, to prepare an assessment under
18 subdivision (b) of Section 366.22.

19 (d) If the child or, on and after January 1, 2012, nonminor
20 dependent is in a placement other than the home of a legal guardian
21 and jurisdiction has not been dismissed, the status of the child shall
22 be reviewed at least every six months. The review of the status of
23 a child for whom the court has ordered parental rights terminated
24 and who has been ordered placed for adoption shall be conducted
25 by the court. The review of the status of a child or, on and after
26 January 1, 2012, nonminor dependent for whom the court has not
27 ordered parental rights terminated and who has not been ordered
28 placed for adoption may be conducted by the court or an
29 appropriate local agency. The court shall conduct the review under
30 the following circumstances:

31 (1) Upon the request of the child's parents or legal guardians.

32 (2) Upon the request of the child or, on and after January 1,
33 2012, nonminor dependent.

34 (3) It has been 12 months since a hearing held pursuant to
35 Section 366.26 or an order that the child remain in long-term foster
36 care pursuant to Section 366.21, 366.22, 366.25, 366.26, or
37 subdivision (h).

38 (4) It has been 12 months since a review was conducted by the
39 court.

1 The court shall determine whether or not reasonable efforts to
2 make and finalize a permanent placement for the child have been
3 made.

4 (e) Except as provided in subdivision (g), at the review held
5 every six months pursuant to subdivision (d), the reviewing body
6 shall inquire about the progress being made to provide a permanent
7 home for the child, shall consider the safety of the child, and shall
8 determine all of the following:

9 (1) The continuing necessity for, and appropriateness of, the
10 placement.

11 (2) Identification of individuals other than the child's siblings
12 who are important to a child who is 10 years of age or older and
13 has been in out-of-home placement for six months or longer, and
14 actions necessary to maintain the child's relationship with those
15 individuals, provided that those relationships are in the best interest
16 of the child. The social worker shall ask every child who is 10
17 years of age or older and who has been in out-of-home placement
18 for six months or longer to identify individuals other than the
19 child's siblings who are important to the child, and may ask any
20 other child to provide that information, as appropriate. The social
21 worker shall make efforts to identify other individuals who are
22 important to the child, consistent with the child's best interests.

23 (3) The continuing appropriateness and extent of compliance
24 with the permanent plan for the child, including efforts to maintain
25 relationships between a child who is 10 years of age or older and
26 who has been in out-of-home placement for six months or longer
27 and individuals who are important to the child and efforts to
28 identify a prospective adoptive parent or legal guardian, including,
29 but not limited to, child-specific recruitment efforts and listing on
30 an adoption exchange.

31 (4) The extent of the agency's compliance with the child welfare
32 services case plan in making reasonable efforts either to return the
33 child to the safe home of the parent or to complete whatever steps
34 are necessary to finalize the permanent placement of the child. If
35 the reviewing body determines that a second period of reunification
36 services is in the child's best interests, and that there is a significant
37 likelihood of the child's return to a safe home due to changed
38 circumstances of the parent, pursuant to subdivision (f), the specific
39 reunification services required to effect the child's return to a safe
40 home shall be described.

1 (5) Whether there should be any limitation on the right of the
2 parent or guardian to make educational decisions for the child.
3 That limitation shall be specifically addressed in the court order
4 and may not exceed what is necessary to protect the child. If the
5 court specifically limits the right of the parent or guardian to make
6 educational decisions for the child, the court shall at the same time
7 appoint a responsible adult to make educational decisions for the
8 child pursuant to Section 361.

9 (6) The adequacy of services provided to the child. The court
10 shall consider the progress in providing the information and
11 documents to the child, as described in Section 391. The court
12 shall also consider the need for, and progress in providing, the
13 assistance and services described in Section 391.

14 (7) The extent of progress the parents or legal guardians have
15 made toward alleviating or mitigating the causes necessitating
16 placement in foster care.

17 (8) The likely date by which the child may be returned to, and
18 safely maintained in, the home, placed for adoption, legal
19 guardianship, in another planned permanent living arrangement,
20 or, for an Indian child, in consultation with the child's tribe, placed
21 for tribal customary adoption.

22 (9) Whether the child has any siblings under the court's
23 jurisdiction, and, if any siblings exist, all of the following:

24 (A) The nature of the relationship between the child and his or
25 her siblings.

26 (B) The appropriateness of developing or maintaining the sibling
27 relationships pursuant to Section 16002.

28 (C) If the siblings are not placed together in the same home,
29 why the siblings are not placed together and what efforts are being
30 made to place the siblings together, or why those efforts are not
31 appropriate.

32 (D) If the siblings are not placed together, the frequency and
33 nature of the visits between siblings.

34 (E) The impact of the sibling relationships on the child's
35 placement and planning for legal permanence.

36 The factors the court may consider as indicators of the nature of
37 the child's sibling relationships include, but are not limited to,
38 whether the siblings were raised together in the same home,
39 whether the siblings have shared significant common experiences
40 or have existing close and strong bonds, whether either sibling

1 expresses a desire to visit or live with his or her sibling, as
2 applicable, and whether ongoing contact is in the child's best
3 emotional interests.

4 (10) For a child who is 16 years of age or older, and, effective
5 January 1, 2012, for a nonminor dependent, the services needed
6 to assist the child or nonminor dependent to make the transition
7 from foster care to independent living.

8 The reviewing body shall determine whether or not reasonable
9 efforts to make and finalize a permanent placement for the child
10 have been made.

11 Each licensed foster family agency shall submit reports for each
12 child in its care, custody, and control to the court concerning the
13 continuing appropriateness and extent of compliance with the
14 child's permanent plan, the extent of compliance with the case
15 plan, and the type and adequacy of services provided to the child.

16 (f) Unless their parental rights have been permanently
17 terminated, the parent or parents of the child are entitled to receive
18 notice of, and participate in, those hearings. It shall be presumed
19 that continued care is in the best interests of the child, unless the
20 parent or parents prove, by a preponderance of the evidence, that
21 further efforts at reunification are the best alternative for the child.
22 In those cases, the court may order that further reunification
23 services to return the child to a safe home environment be provided
24 to the parent or parents up to a period of six months, and family
25 maintenance services, as needed for an additional six months in
26 order to return the child to a safe home environment. On and after
27 January 1, 2012, this subdivision shall not apply to the parents of
28 a nonminor dependent.

29 (g) At the review conducted by the court and held at least every
30 six months, regarding a child for whom the court has ordered
31 parental rights terminated and who has been ordered placed for
32 adoption, or, for an Indian child for whom parental rights are not
33 being terminated and a tribal customary adoption is being
34 considered, the county welfare department shall prepare and present
35 to the court a report describing the following:

36 (1) The child's present placement.

37 (2) The child's current physical, mental, emotional, and
38 educational status.

39 (3) If the child has not been placed with a prospective adoptive
40 parent or guardian, identification of individuals, other than the

1 child's siblings, who are important to the child and actions
2 necessary to maintain the child's relationship with those
3 individuals, provided that those relationships are in the best interest
4 of the child. The agency shall ask every child who is 10 years of
5 age or older to identify any individuals who are important to him
6 or her, consistent with the child's best interest, and may ask any
7 child who is younger than 10 years of age to provide that
8 information as appropriate. The agency shall make efforts to
9 identify other individuals who are important to the child.

10 (4) Whether the child has been placed with a prospective
11 adoptive parent or parents.

12 (5) Whether an adoptive placement agreement has been signed
13 and filed.

14 (6) If the child has not been placed with a prospective adoptive
15 parent or parents, the efforts made to identify an appropriate
16 prospective adoptive parent or legal guardian, including, but not
17 limited to, child-specific recruitment efforts and listing on an
18 adoption exchange.

19 (7) Whether the final adoption order should include provisions
20 for postadoptive sibling contact pursuant to Section 366.29.

21 (8) The progress of the search for an adoptive placement if one
22 has not been identified.

23 (9) Any impediments to the adoption or the adoptive placement.

24 (10) The anticipated date by which the child will be adopted or
25 placed in an adoptive home.

26 (11) The anticipated date by which an adoptive placement
27 agreement will be signed.

28 (12) Recommendations for court orders that will assist in the
29 placement of the child for adoption or in the finalization of the
30 adoption.

31 The court shall determine whether or not reasonable efforts to
32 make and finalize a permanent placement for the child have been
33 made.

34 The court shall make appropriate orders to protect the stability
35 of the child and to facilitate and expedite the permanent placement
36 and adoption of the child.

37 (h) At the review held pursuant to subdivision (d) for a child in
38 long-term foster care, the court shall consider all permanency
39 planning options for the child including whether the child should
40 be returned to the home of the parent, placed for adoption, or, for

1 an Indian child, in consultation with the child's tribe, placed for
2 tribal customary adoption, or appointed a legal guardian, or, if
3 compelling reasons exist for finding that none of the foregoing
4 options are in the best interest of the child, whether the child should
5 be placed in another planned permanent living arrangement. The
6 court shall order that a hearing be held pursuant to Section 366.26,
7 unless it determines by clear and convincing evidence that there
8 is a compelling reason for determining that a hearing held pursuant
9 to Section 366.26 is not in the best interest of the child because
10 the child is being returned to the home of the parent, the child is
11 not a proper subject for adoption, or no one is willing to accept
12 legal guardianship. If the licensed county adoption agency, or the
13 department when it is acting as an adoption agency in counties
14 that are not served by a county adoption agency, has determined
15 it is unlikely that the child will be adopted or one of the conditions
16 described in paragraph (1) of subdivision (c) of Section 366.26
17 applies, that fact shall constitute a compelling reason for purposes
18 of this subdivision. Only upon that determination may the court
19 order that the child remain in long-term foster care, without holding
20 a hearing pursuant to Section 366.26. On and after January 1, 2012,
21 the nonminor dependent's legal status as an adult is in and of itself
22 a compelling reason not to hold a hearing pursuant to Section
23 366.26.

24 (i) If, as authorized by subdivision (h), the court orders a hearing
25 pursuant to Section 366.26, the court shall direct the agency
26 supervising the child and the licensed county adoption agency, or
27 the State Department of Social Services when it is acting as an
28 adoption agency in counties that are not served by a county
29 adoption agency, to prepare an assessment as provided for in
30 subdivision (i) of Section 366.21 or subdivision (b) of Section
31 366.22. A hearing held pursuant to Section 366.26 shall be held
32 no later than 120 days from the date of the 12-month review at
33 which it is ordered, and at that hearing the court shall determine
34 whether adoption, tribal customary adoption, legal guardianship,
35 or long-term foster care is the most appropriate plan for the child.
36 On and after January 1, 2012, a hearing pursuant to Section 366.26
37 shall not be ordered if the child is a nonminor dependent. The court
38 may order that a nonminor dependent who otherwise meets the
39 criteria described in Section 11403 remain in a planned, permanent
40 living arrangement.

1 (j) The implementation and operation of the amendments to
2 subdivision (e) enacted at the 2005–06 Regular Session shall be
3 subject to appropriation through the budget process and by phase,
4 as provided in Section 366.35.

5 (k) The reviews conducted pursuant to subdivision (a) or (d)
6 may be conducted earlier than every six months if the court
7 determines that an earlier review is in the best interests of the child
8 or as court rules prescribe.

9 (l) On and after January 1, 2012, at the review hearing that
10 occurs in the six-month period prior to the minor's attaining 18
11 years of age, and at every subsequent review hearing for the
12 nonminor dependent, the report shall describe all of the following:

13 (1) The minor's or nonminor dependent's plans to remain in
14 foster care and plans to meet one or more of the criteria as
15 described in Section 11403 to continue to receive AFDC-FC
16 benefits.

17 (2) The efforts made and assistance provided to the minor or
18 nonminor dependent by the social worker or the probation officer
19 so that the minor or nonminor dependent will be able to meet the
20 criteria.

21 (3) Efforts toward completing the items described in paragraph
22 (2) of subdivision (e) of Section 391.

23 (m) On and after January 1, 2012, the reviews conducted
24 pursuant to subdivisions (e) and (h) for any nonminor dependent
25 shall be conducted in a manner that respects the nonminor's status
26 as a legal adult, be focused on the goals and services described in
27 the youth's transitional independent living case plan, including
28 efforts made to achieve permanence, including maintaining or
29 obtaining permanent connections with caring and committed adults,
30 and attended as appropriate by additional participants invited by
31 the nonminor dependent. The review shall include all the issues
32 in subdivision (e), except paragraph (5) of subdivision (e). The
33 county child welfare or probation department, or Indian tribe that
34 has entered into an agreement pursuant to Section 10553.1 shall
35 prepare and present to the court a report that addresses the youth's
36 progress in meeting the goals in the transitional independent living
37 case plan and propose modifications as necessary to further those
38 goals. The report shall document that the nonminor has received
39 all the information and documentation described in paragraph (2)
40 of subdivision (e) of Section 391. If the court is considering

1 terminating dependency jurisdiction for a nonminor dependent it
2 shall first hold a hearing pursuant to Section 391.

3 (n) On and after January 1, 2012, if a review hearing pursuant
4 to this section is the last review hearing to be held before the child
5 attains 18 years of age, the court shall ensure that the child's
6 transitional independent living case plan includes a plan for the
7 child to meet one or more of the criteria in Section 11403 so that
8 the child can become a nonminor dependent, and that the child has
9 been informed of his or her right to seek the termination of
10 dependency jurisdiction pursuant to Section 391.

11 (o) This section shall remain in effect only until January 1, 2014,
12 and as of that date is repealed, unless a later enacted statute, that
13 is enacted before January 1, 2014, deletes or extends that date.

14 SEC. 23. Section 366.3 of the Welfare and Institutions Code,
15 as added by Section 18 of Chapter 287 of the Statutes of 2009, is
16 amended to read:

17 366.3. (a) If a juvenile court orders a permanent plan of
18 adoption or legal guardianship pursuant to Section 360 or 366.26,
19 the court shall retain jurisdiction over the child until the child is
20 adopted or the legal guardianship is established, except as provided
21 for in Section 366.29 or, on and after January 1, 2012, Section
22 366.31. The status of the child shall be reviewed every six months
23 to ensure that the adoption or legal guardianship is completed as
24 expeditiously as possible. When the adoption of the child has been
25 granted, the court shall terminate its jurisdiction over the child.
26 Following establishment of a legal guardianship, the court may
27 continue jurisdiction over the child as a dependent child of the
28 juvenile court or may terminate its dependency jurisdiction and
29 retain jurisdiction over the child as a ward of the legal guardianship,
30 as authorized by Section 366.4. If, however, a relative of the child
31 is appointed the legal guardian of the child and the child has been
32 placed with the relative for at least six months, the court shall,
33 except if the relative guardian objects, or upon a finding of
34 exceptional circumstances, terminate its dependency jurisdiction
35 and retain jurisdiction over the child as a ward of the guardianship,
36 as authorized by Section 366.4. Following a termination of parental
37 rights, the parent or parents shall not be a party to, or receive notice
38 of, any subsequent proceedings regarding the child.

39 (b) If the court has dismissed dependency jurisdiction following
40 the establishment of a legal guardianship, or no dependency

1 jurisdiction attached because of the granting of a legal guardianship
2 pursuant to Section 360, and the legal guardianship is subsequently
3 revoked or otherwise terminated, the county department of social
4 services or welfare department shall notify the juvenile court of
5 this fact. The court may vacate its previous order dismissing
6 dependency jurisdiction over the child.

7 Notwithstanding Section 1601 of the Probate Code, the
8 proceedings to terminate a legal guardianship that has been granted
9 pursuant to Section 360 or 366.26 shall be held either in the
10 juvenile court that retains jurisdiction over the guardianship as
11 authorized by Section 366.4 or the juvenile court in the county
12 where the guardian and child currently reside, based on the best
13 interests of the child, unless the termination is due to the
14 emancipation or adoption of the child. The juvenile court having
15 jurisdiction over the guardianship shall receive notice from the
16 court in which the petition is filed within five calendar days of the
17 filing. Prior to the hearing on a petition to terminate legal
18 guardianship pursuant to this subdivision, the court shall order the
19 county department of social services or welfare department having
20 jurisdiction or jointly with the county department where the
21 guardian and child currently reside to prepare a report, for the
22 court's consideration, that shall include an evaluation of whether
23 the child could safely remain in, or be returned to, the legal
24 guardian's home, without terminating the legal guardianship, if
25 services were provided to the child or legal guardian. If applicable,
26 the report shall also identify recommended family maintenance or
27 reunification services to maintain the legal guardianship and set
28 forth a plan for providing those services. If the petition to terminate
29 legal guardianship is granted, either juvenile court may resume
30 dependency jurisdiction over the child, and may order the county
31 department of social services or welfare department to develop a
32 new permanent plan, which shall be presented to the court within
33 60 days of the termination. If no dependency jurisdiction has
34 attached, the social worker shall make any investigation he or she
35 deems necessary to determine whether the child may be within the
36 jurisdiction of the juvenile court, as provided in Section 328.

37 Unless the parental rights of the child's parent or parents have
38 been terminated, they shall be notified that the legal guardianship
39 has been revoked or terminated and shall be entitled to participate
40 in the new permanency planning hearing. The court shall try to

1 place the child in another permanent placement. At the hearing,
2 the parents may be considered as custodians but the child shall not
3 be returned to the parent or parents unless they prove, by a
4 preponderance of the evidence, that reunification is the best
5 alternative for the child. The court may, if it is in the best interests
6 of the child, order that reunification services again be provided to
7 the parent or parents.

8 (c) If, following the establishment of a legal guardianship, the
9 county welfare department becomes aware of changed
10 circumstances that indicate adoption may be an appropriate plan
11 for the child, the department shall so notify the court. The court
12 may vacate its previous order dismissing dependency jurisdiction
13 over the child and order that a hearing be held pursuant to Section
14 366.26 to determine whether adoption or continued legal
15 guardianship is the most appropriate plan for the child. The hearing
16 shall be held no later than 120 days from the date of the order. If
17 the court orders that a hearing shall be held pursuant to Section
18 366.26, the court shall direct the agency supervising the child and
19 the licensed county adoption agency, or the State Department of
20 Social Services if it is acting as an adoption agency in counties
21 that are not served by a county adoption agency, to prepare an
22 assessment under subdivision (b) of Section 366.22.

23 (d) If the child or, on and after January 1, 2012, nonminor
24 dependent is in a placement other than the home of a legal guardian
25 and jurisdiction has not been dismissed, the status of the child shall
26 be reviewed at least every six months. The review of the status of
27 a child for whom the court has ordered parental rights terminated
28 and who has been ordered placed for adoption shall be conducted
29 by the court. The review of the status of a child or, on and after
30 January 1, 2012, nonminor dependent for whom the court has not
31 ordered parental rights terminated and who has not been ordered
32 placed for adoption may be conducted by the court or an
33 appropriate local agency. The court shall conduct the review under
34 the following circumstances:

35 (1) Upon the request of the child's parents or legal guardians.

36 (2) Upon the request of the child or, on and after January 1,
37 2012, nonminor dependent.

38 (3) It has been 12 months since a hearing held pursuant to
39 Section 366.26 or an order that the child remain in long-term foster

1 care pursuant to Section 366.21, 366.22, 366.25, 366.26, or
2 subdivision (h).

3 (4) It has been 12 months since a review was conducted by the
4 court.

5 The court shall determine whether or not reasonable efforts to
6 make and finalize a permanent placement for the child have been
7 made.

8 (e) Except as provided in subdivision (g), at the review held
9 every six months pursuant to subdivision (d), the reviewing body
10 shall inquire about the progress being made to provide a permanent
11 home for the child, shall consider the safety of the child, and shall
12 determine all of the following:

13 (1) The continuing necessity for, and appropriateness of, the
14 placement.

15 (2) Identification of individuals other than the child's siblings
16 who are important to a child who is 10 years of age or older and
17 has been in out-of-home placement for six months or longer, and
18 actions necessary to maintain the child's relationship with those
19 individuals, provided that those relationships are in the best interest
20 of the child. The social worker shall ask every child who is 10
21 years of age or older and who has been in out-of-home placement
22 for six months or longer to identify individuals other than the
23 child's siblings who are important to the child, and may ask any
24 other child to provide that information, as appropriate. The social
25 worker shall make efforts to identify other individuals who are
26 important to the child, consistent with the child's best interests.

27 (3) The continuing appropriateness and extent of compliance
28 with the permanent plan for the child, including efforts to maintain
29 relationships between a child who is 10 years of age or older and
30 who has been in out-of-home placement for six months or longer
31 and individuals who are important to the child and efforts to
32 identify a prospective adoptive parent or legal guardian, including,
33 but not limited to, child-specific recruitment efforts and listing on
34 an adoption exchange.

35 (4) The extent of the agency's compliance with the child welfare
36 services case plan in making reasonable efforts either to return the
37 child to the safe home of the parent or to complete whatever steps
38 are necessary to finalize the permanent placement of the child. If
39 the reviewing body determines that a second period of reunification
40 services is in the child's best interests, and that there is a significant

1 likelihood of the child's return to a safe home due to changed
2 circumstances of the parent, pursuant to subdivision (f), the specific
3 reunification services required to effect the child's return to a safe
4 home shall be described.

5 (5) Whether there should be any limitation on the right of the
6 parent or guardian to make educational decisions for the child.
7 That limitation shall be specifically addressed in the court order
8 and may not exceed what is necessary to protect the child. If the
9 court specifically limits the right of the parent or guardian to make
10 educational decisions for the child, the court shall at the same time
11 appoint a responsible adult to make educational decisions for the
12 child pursuant to Section 361.

13 (6) The adequacy of services provided to the child. The court
14 shall consider the progress in providing the information and
15 documents to the child, as described in Section 391. The court
16 shall also consider the need for, and progress in providing, the
17 assistance and services described in Section 391.

18 (7) The extent of progress the parents or legal guardians have
19 made toward alleviating or mitigating the causes necessitating
20 placement in foster care.

21 (8) The likely date by which the child may be returned to, and
22 safely maintained in, the home, placed for adoption, legal
23 guardianship, or in another planned permanent living arrangement.

24 (9) Whether the child has any siblings under the court's
25 jurisdiction, and, if any siblings exist, all of the following:

26 (A) The nature of the relationship between the child and his or
27 her siblings.

28 (B) The appropriateness of developing or maintaining the sibling
29 relationships pursuant to Section 16002.

30 (C) If the siblings are not placed together in the same home,
31 why the siblings are not placed together and what efforts are being
32 made to place the siblings together, or why those efforts are not
33 appropriate.

34 (D) If the siblings are not placed together, the frequency and
35 nature of the visits between siblings.

36 (E) The impact of the sibling relationships on the child's
37 placement and planning for legal permanence.

38 The factors the court may consider as indicators of the nature of
39 the child's sibling relationships include, but are not limited to,
40 whether the siblings were raised together in the same home,

1 whether the siblings have shared significant common experiences
2 or have existing close and strong bonds, whether either sibling
3 expresses a desire to visit or live with his or her sibling, as
4 applicable, and whether ongoing contact is in the child's best
5 emotional interests.

6 (10) For a child who is 16 years of age or older, and, effective
7 January 1, 2012, for a nonminor dependent, the services needed
8 to assist the child or nonminor dependent to make the transition
9 from foster care to independent living.

10 The reviewing body shall determine whether or not reasonable
11 efforts to make and finalize a permanent placement for the child
12 have been made.

13 Each licensed foster family agency shall submit reports for each
14 child in its care, custody, and control to the court concerning the
15 continuing appropriateness and extent of compliance with the
16 child's permanent plan, the extent of compliance with the case
17 plan, and the type and adequacy of services provided to the child.

18 (f) Unless their parental rights have been permanently
19 terminated, the parent or parents of the child are entitled to receive
20 notice of, and participate in, those hearings. It shall be presumed
21 that continued care is in the best interests of the child, unless the
22 parent or parents prove, by a preponderance of the evidence, that
23 further efforts at reunification are the best alternative for the child.
24 In those cases, the court may order that further reunification
25 services to return the child to a safe home environment be provided
26 to the parent or parents up to a period of six months, and family
27 maintenance services, as needed for an additional six months in
28 order to return the child to a safe home environment.

29 (g) At the review conducted by the court and held at least every
30 six months, regarding a child for whom the court has ordered
31 parental rights terminated and who has been ordered placed for
32 adoption, the county welfare department shall prepare and present
33 to the court a report describing the following:

34 (1) The child's present placement.

35 (2) The child's current physical, mental, emotional, and
36 educational status.

37 (3) If the child has not been placed with a prospective adoptive
38 parent or guardian, identification of individuals, other than the
39 child's siblings, who are important to the child and actions
40 necessary to maintain the child's relationship with those

1 individuals, provided that those relationships are in the best interest
2 of the child. The agency shall ask every child who is 10 years of
3 age or older to identify any individuals who are important to him
4 or her, consistent with the child's best interest, and may ask any
5 child who is younger than 10 years of age to provide that
6 information as appropriate. The agency shall make efforts to
7 identify other individuals who are important to the child.

8 (4) Whether the child has been placed with a prospective
9 adoptive parent or parents.

10 (5) Whether an adoptive placement agreement has been signed
11 and filed.

12 (6) If the child has not been placed with a prospective adoptive
13 parent or parents, the efforts made to identify an appropriate
14 prospective adoptive parent or legal guardian, including, but not
15 limited to, child-specific recruitment efforts and listing on an
16 adoption exchange.

17 (7) Whether the final adoption order should include provisions
18 for postadoptive sibling contact pursuant to Section 366.29.

19 (8) The progress of the search for an adoptive placement if one
20 has not been identified.

21 (9) Any impediments to the adoption or the adoptive placement.

22 (10) The anticipated date by which the child will be adopted or
23 placed in an adoptive home.

24 (11) The anticipated date by which an adoptive placement
25 agreement will be signed.

26 (12) Recommendations for court orders that will assist in the
27 placement of the child for adoption or in the finalization of the
28 adoption.

29 The court shall determine whether or not reasonable efforts to
30 make and finalize a permanent placement for the child have been
31 made.

32 The court shall make appropriate orders to protect the stability
33 of the child and to facilitate and expedite the permanent placement
34 and adoption of the child.

35 (h) At the review held pursuant to subdivision (d) for a child in
36 long-term foster care, the court shall consider all permanency
37 planning options for the child including whether the child should
38 be returned to the home of the parent, placed for adoption, or
39 appointed a legal guardian, or, if compelling reasons exist for
40 finding that none of the foregoing options are in the best interest

1 of the child, whether the child should be placed in another planned
2 permanent living arrangement. The court shall order that a hearing
3 be held pursuant to Section 366.26, unless it determines by clear
4 and convincing evidence that there is a compelling reason for
5 determining that a hearing held pursuant to Section 366.26 is not
6 in the best interest of the child because the child is being returned
7 to the home of the parent, the child is not a proper subject for
8 adoption, or no one is willing to accept legal guardianship. If the
9 licensed county adoption agency, or the department when it is
10 acting as an adoption agency in counties that are not served by a
11 county adoption agency, has determined it is unlikely that the child
12 will be adopted or one of the conditions described in paragraph
13 (1) of subdivision (c) of Section 366.26 applies, that fact shall
14 constitute a compelling reason for purposes of this subdivision.
15 Only upon that determination may the court order that the child
16 remain in foster care, without holding a hearing pursuant to Section
17 366.26. On and after January 1, 2012, the nonminor dependent's
18 legal status as an adult is in and of itself a compelling reason not
19 to hold a hearing pursuant to Section 366.26.

20 (i) If, as authorized by subdivision (h), the court orders a hearing
21 pursuant to Section 366.26, the court shall direct the agency
22 supervising the child and the licensed county adoption agency, or
23 the State Department of Social Services when it is acting as an
24 adoption agency in counties that are not served by a county
25 adoption agency, to prepare an assessment as provided for in
26 subdivision (i) of Section 366.21 or subdivision (b) of Section
27 366.22. A hearing held pursuant to Section 366.26 shall be held
28 no later than 120 days from the date of the 12-month review at
29 which it is ordered, and at that hearing the court shall determine
30 whether adoption, legal guardianship, or long-term foster care is
31 the most appropriate plan for the child. On and after January 1,
32 2012, a hearing pursuant to Section 366.26 shall not be ordered if
33 the child is a nonminor dependent. The court may order that a
34 nonminor dependent who otherwise meets the criteria described
35 in Section 11403 remain in a planned, permanent living
36 arrangement.

37 (j) The implementation and operation of the amendments to
38 subdivision (e) enacted at the 2005–06 Regular Session shall be
39 subject to appropriation through the budget process and by phase,
40 as provided in Section 366.35.

1 (k) The reviews conducted pursuant to subdivision (a) or (d)
2 may be conducted earlier than every six months if the court
3 determines that an earlier review is in the best interests of the child
4 or as court rules prescribe.

5 (l) On and after October 1, 2012, at the review hearing that
6 occurs in the six-month period prior to the minor's attaining 18
7 years of age, and at every subsequent review hearing, the report
8 shall describe all of the following:

9 (1) The minor's plans to remain in foster care and plans to meet
10 one or more of the criteria as described in Section 11403 to
11 continue to receive AFDC-FC benefits.

12 (2) The efforts made and assistance provided to the minor by
13 the social worker or the probation officer so that the minor will be
14 able to meet the criteria.

15 (3) Efforts toward completing the items described in paragraph
16 (2) of subdivision (e) of Section 391.

17 (m) On and after January 1, 2012, the reviews conducted
18 pursuant to subdivisions (e) and (h) for any nonminor dependent
19 shall be conducted in a manner that respects the nonminor's status
20 as a legal adult, be focused on the goals and services described in
21 the youth's transitional independent living case plan, including
22 efforts made to maintain connections with caring and permanently
23 committed adults, and attended as appropriate by additional
24 participants invited by the nonminor dependent. The review shall
25 include all the issues in subdivision (e), except paragraph (5) of
26 subdivision (e). The county child welfare or probation department,
27 or Indian tribe that has entered into an agreement pursuant to
28 Section 10553.1 shall prepare and present to the court a report that
29 addresses the youth's progress in meeting the goals in the
30 transitional independent living case plan and propose modifications
31 as necessary to further those goals. The report shall document that
32 the nonminor has received all the information and documentation
33 described in paragraph (2) of subdivision (e) of Section 391. If the
34 court is considering terminating dependency jurisdiction for a
35 nonminor dependent it shall first hold a hearing pursuant to Section
36 391.

37 (n) On and after January 1, 2012, if a review hearing pursuant
38 to this section is the last review hearing to be held before the child
39 attains 18 years of age, the court shall ensure that the child's
40 transitional independent living case plan includes a plan for the

1 child to meet one or more of the criteria in Section 11403 so that
2 the child can become a nonminor dependent, and that the child has
3 been informed of his or her right to seek the termination of
4 dependency jurisdiction pursuant to Section 391.

5 (o) This section shall become operative on January 1, 2014.

6 SEC. 24. Section 366.31 is added to the Welfare and
7 Institutions Code, to read:

8 366.31. (a) On and after January 1, 2012, with respect to a
9 nonminor dependent, as defined in subdivision (v) of Section
10 11400, who has a permanent plan of long-term foster care that was
11 ordered pursuant to Section 366.21, 366.22, 366.25, or 366.26 the
12 court may continue jurisdiction of the nonminor as a dependent
13 of the juvenile court or may dismiss dependency jurisdiction
14 pursuant to Section 391.

15 (b) If the court continues dependency jurisdiction of the
16 nonminor as a dependent of the juvenile court, the court shall order
17 the development of a planned permanent living arrangement, which
18 may include continued placement with the current caregiver or
19 another licensed or approved caregiver or placement under a mutual
20 agreement pursuant to Section 11403, or in supervised independent
21 living, consistent with the youth's transitional independent living
22 case plan.

23 (c) If the court terminates its dependency jurisdiction over a
24 nonminor dependent pursuant to subdivision (a), it shall retain
25 jurisdiction over the youth pursuant to Section 303. If the court has
26 dismissed dependency jurisdiction pursuant to subdivision (d) of
27 Section 391, the nonminor dependent, who has not attained 21
28 years of age, may subsequently file a petition pursuant to
29 subdivision (e) of Section 388 to have dependency jurisdiction
30 resumed and the court may vacate its previous order dismissing
31 dependency jurisdiction over the nonminor dependent.

32 SEC. 25. Section 366.4 of the Welfare and Institutions Code
33 is amended to read:

34 366.4. (a) Any minor for whom a guardianship has been
35 established resulting from the selection or implementation of a
36 permanency plan pursuant to Section 360 or 366.26, or, on and
37 after the date that the director executes a declaration pursuant to
38 Section 11217, a nonminor who is eligible to receive Kin-GAP
39 payments pursuant to Section 11363 or, effective January 1, 2012,
40 Section 11386, or a nonminor former dependent child of the

1 juvenile court who is receiving AFDC-FC benefits pursuant to
2 Section 11405, is within the jurisdiction of the juvenile court. For
3 those minors, Part 2 (commencing with Section 1500) of Division
4 4 of the Probate Code, relating to guardianship, shall not apply. If
5 no specific provision of this code or the California Rules of Court
6 is applicable, the provisions applicable to the administration of
7 estates under Part 4 (commencing with Section 2100) of Division
8 4 of the Probate Code govern so far as they are applicable to like
9 situations.

10 (b) Nonrelated legal guardians of the person of a minor
11 established as a result of a permanency plan selected pursuant to
12 Section 360 or 366.26 shall be exempt from the provisions of
13 Sections 2850 and 2851 of the Probate Code.

14 SEC. 26. Section 388 of the Welfare and Institutions Code is
15 amended to read:

16 388. (a) Any parent or other person having an interest in a
17 child who is a dependent child of the juvenile court or the child
18 himself or herself through a properly appointed guardian may,
19 upon grounds of change of circumstance or new evidence, petition
20 the court in the same action in which the child was found to be a
21 dependent child of the juvenile court or in which a guardianship
22 was ordered pursuant to Section 360 for a hearing to change,
23 modify, or set aside any order of court previously made or to
24 terminate the jurisdiction of the court. The petition shall be verified
25 and, if made by a person other than the child, shall state the
26 petitioner's relationship to or interest in the child and shall set forth
27 in concise language any change of circumstance or new evidence
28 that are alleged to require the change of order or termination of
29 jurisdiction.

30 (b) Any person, including a child who is a dependent of the
31 juvenile court, may petition the court to assert a relationship as a
32 sibling related by blood, adoption, or affinity through a common
33 legal or biological parent to a child who is, or is the subject of a
34 petition for adjudication as, a dependent of the juvenile court, and
35 may request visitation with the dependent child, placement with
36 or near the dependent child, or consideration when determining
37 or implementing a case plan or permanent plan for the dependent
38 child or make any other request for an order which may be shown
39 to be in the best interest of the dependent child. The court may
40 appoint a guardian ad litem to file the petition for the dependent

1 child asserting the sibling relationship if the court determines that
2 the appointment is necessary for the best interests of the dependent
3 child. The petition shall be verified and shall set forth the
4 following:

5 (1) Through which parent he or she is related to the dependent
6 child.

7 (2) Whether he or she is related to the dependent child by blood,
8 adoption, or affinity.

9 (3) The request or order that the petitioner is seeking.

10 (4) Why that request or order is in the best interest of the
11 dependent child.

12 (c) (1) Any party, including a child who is a dependent of the
13 juvenile court, may petition the court, prior to the hearing set
14 pursuant to subdivision (f) of Section 366.21 for a child described
15 by subparagraph (A) of paragraph (1) of subdivision (a) of Section
16 361.5, or prior to the hearing set pursuant to subdivision (e) of
17 Section 366.21 for a child described by subparagraph (B) or (C)
18 of paragraph (1) of subdivision (a) of Section 361.5, to terminate
19 court-ordered reunification services provided under subdivision
20 (a) of Section 361.5 only if one of the following conditions exists:

21 (A) It appears that a change of circumstance or new evidence
22 exists that satisfies a condition set forth in subdivision (b) or (e)
23 of Section 361.5 justifying termination of court-ordered
24 reunification services.

25 (B) The action or inaction of the parent or guardian creates a
26 substantial likelihood that reunification will not occur, including,
27 but not limited to, the parent or guardian's failure to visit the child,
28 or the failure of the parent or guardian to participate regularly and
29 make substantive progress in a court-ordered treatment plan.

30 (2) In determining whether the parent or guardian has failed to
31 visit the child or participate regularly or make progress in the
32 treatment plan, the court shall consider factors including, but not
33 limited to, the parent or guardian's incarceration,
34 institutionalization, or participation in a residential substance abuse
35 treatment program.

36 (3) The court shall terminate reunification services during the
37 above-described time periods only upon a finding by a
38 preponderance of evidence that reasonable services have been
39 offered or provided, and upon a finding of clear and convincing

1 evidence that one of the conditions in subparagraph (A) or (B) of
2 paragraph (1) exists.

3 (4) If the court terminates reunification services, it shall order
4 that a hearing pursuant to Section 366.26 be held within 120 days.

5 (d) If it appears that the best interests of the child may be
6 promoted by the proposed change of order, recognition of a sibling
7 relationship, termination of jurisdiction, or clear and convincing
8 evidence supports revocation or termination of court-ordered
9 reunification services, the court shall order that a hearing be held
10 and shall give prior notice, or cause prior notice to be given, to the
11 persons and by the means prescribed by Section 386, and, in those
12 instances in which the means of giving notice is not prescribed by
13 those sections, then by means the court prescribes.

14 (e) (1) On and after January 1, 2012, a nonminor who has not
15 attained 19 years of age, or, commencing January 1, 2013, 20 years
16 of age, or, commencing January 1, 2014, 21 years of age, for whom
17 the court has dismissed dependency jurisdiction pursuant to Section
18 391 may petition the court in the same action in which the child
19 was found to be a dependent child of the juvenile court for a
20 hearing to resume the dependency jurisdiction of the court.

21 (2) The petition to resume dependency jurisdiction may be filed
22 in the juvenile court that retains jurisdiction under subdivision (b)
23 of Section 303 or the juvenile court in the county where the youth
24 resides. The juvenile court having jurisdiction under Section 303
25 shall receive the petition from the court in which the petition is
26 filed within five court days of the filing if the petition is filed in
27 the county of residence. Upon ~~receipt~~ *filing* of the petition, the
28 court shall order that a hearing be held ~~and, if there is a prima facie~~
29 *showing that the nonminor satisfies at least one of the conditions*
30 *in Section 11403. Upon ordering a hearing, the court shall give*
31 *prior notice, or cause prior notice to be given, to the persons and*
32 *by the means prescribed by Section 386, except that notice to*
33 *parents or former guardians shall not be provided if the nonminor*
34 *objects, in writing, on the face of the petition.*

35 (3) The Judicial Council, by January 1, 2012, shall adopt rules
36 of court to allow for telephonic appearances by nonminor former
37 dependents in these proceedings.

38 (4) Prior to the hearing on a petition to resume dependency
39 jurisdiction, the court shall order the county child welfare or
40 probation department or Indian tribe that has entered into an

1 agreement pursuant to Section 10553.1 to prepare a report for the
2 court addressing whether the nonminor is able to meet at least one
3 of the criteria set forth in Section 11403.

4 (5) The court, if it finds that the nonminor is able to meet at
5 least one of the criteria set forth in Section 11403, shall resume
6 dependency jurisdiction and order the county child welfare or
7 probation department or tribe to develop a new transitional
8 independent living case plan with the youth, which shall be
9 presented to the court within 60 days of the resumption of the
10 dependency jurisdiction.

11 SEC. 27. Section 391 of the Welfare and Institutions Code is
12 amended to read:

13 391. (a) At any hearing to terminate jurisdiction over a
14 dependent child who has reached the age of majority, the county
15 welfare department shall do all of the following:

16 (1) Ensure that the child is present in court, unless the child
17 does not wish to appear in court, or document efforts by the county
18 welfare department to locate the child when the child is not
19 available.

20 (2) Submit a report verifying that the following information,
21 documents, and services have been provided to the child:

22 (A) Written information concerning the child's dependency
23 case, including any known information regarding the child's Indian
24 heritage or tribal connections, if applicable, his or her family
25 history and placement history, any photographs of the child or his
26 or her family in the possession of the county welfare department,
27 other than forensic photographs, the whereabouts of any siblings
28 under the jurisdiction of the juvenile court, unless the court
29 determines that sibling contact would jeopardize the safety or
30 welfare of the sibling, directions on how to access the documents
31 the child is entitled to inspect under Section 827, and the date on
32 which the jurisdiction of the juvenile court would be terminated.

33 (B) The following documents:

34 (i) Social security card.

35 (ii) Certified birth certificate.

36 (iii) Health and education summary, as described in subdivision
37 (a) of Section 16010.

38 (iv) Driver's license, as described in Section 12500 of the
39 Vehicle Code, or identification card, as described in Section 13000
40 of the Vehicle Code.

1 (v) A letter prepared by the county welfare department that
2 includes the following information:

3 (I) The child's name and date of birth.

4 (II) The dates during which the child was within the jurisdiction
5 of the juvenile court.

6 (III) A statement that the child was a foster youth in compliance
7 with state and federal financial aid documentation requirements.

8 (vi) If applicable, the death certificate of the parent or parents.

9 (vii) If applicable, proof of the child's citizenship or legal
10 residence.

11 (C) Assistance in completing an application for Medi-Cal or
12 assistance in obtaining other health insurance; referral to
13 transitional housing, if available, or assistance in securing other
14 housing; and assistance in obtaining employment or other financial
15 support.

16 (D) Assistance in applying for admission to college or to a
17 vocational training program or other educational institution and
18 in obtaining financial aid, where appropriate.

19 (E) Assistance in maintaining relationships with individuals
20 who are important to a child who has been in out-of-home
21 placement for six months or longer from the date the child entered
22 foster care, based on the child's best interests.

23 (3) The court may continue jurisdiction if it finds that the county
24 welfare department has not met the requirements of paragraph (2)
25 of subdivision (a) and that termination of jurisdiction would be
26 harmful to the best interests of the child. If the court determines
27 that continued jurisdiction is warranted pursuant to this section,
28 the continuation shall only be ordered for that period of time
29 necessary for the county welfare department to meet the
30 requirements of paragraph (2) of subdivision (a). This section shall
31 not be construed to limit the discretion of the juvenile court to
32 continue jurisdiction for other reasons. The court may terminate
33 jurisdiction if the county welfare department has offered the
34 required services, and the child either has refused the services or,
35 after reasonable efforts by the county welfare department, cannot
36 be located.

37 (b) The Judicial Council shall develop and implement standards,
38 and develop and adopt appropriate forms, necessary to implement
39 this section.

1 (c) This section shall remain in effect only until January 1, 2012,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2012, deletes or extends that date.

4 SEC. 28. Section 391 is added to the Welfare and Institutions
5 Code, to read:

6 391. (a) The court shall not terminate jurisdiction over a
7 dependent youth who has reached 18 years of age unless a hearing
8 is conducted pursuant to this section.

9 (b) At any hearing for a dependent youth who has attained 18
10 years of age at which the court is considering termination of the
11 jurisdiction of the juvenile court and the accompanying foster care
12 services as described in Section 11403, the county welfare
13 department shall do all of the following:

14 (1) Ensure that the dependent is present in court, unless the
15 dependent does not wish to appear in court, or document efforts
16 by the county welfare department to locate the child when the child
17 is not available.

18 (2) Submit a report describing whether it is in the youth's best
19 interests to remain under the court's dependency jurisdiction, which
20 includes a recommended transitional independent living case plan
21 for any youth that the department determines would benefit from
22 continued jurisdiction.

23 (c) The court shall continue dependency jurisdiction for a
24 nonminor dependent, as defined in subdivision (v) of Section 11400
25 of the Welfare and Institutions Code, who meets the criteria of
26 Section 11403 unless the court finds that after reasonable and
27 documented efforts the nonminor cannot be located or does not
28 wish to remain subject to dependency jurisdiction. In making this
29 finding, the court shall ensure that the nonminor has been informed
30 of his or her options including the right to file a petition pursuant
31 to Section 388 to resume dependency jurisdiction, and had an
32 opportunity to confer with his or her counsel if counsel has been
33 appointed pursuant to Section 317.

34 (d) If the court terminates dependency jurisdiction, the nonminor
35 shall remain within the jurisdiction of the court until the nonminor
36 attains 21 years of age, although no review proceedings shall be
37 required. A nonminor may petition the court pursuant to
38 subdivision (e) of Section 388 to resume dependency jurisdiction
39 at any time before attaining 21 years of age.

(e) Unless the nonminor does not wish to remain under the dependency or delinquency jurisdiction of the court, or, after reasonable efforts by the county welfare department the nonminor cannot be located, the court shall not terminate dependency or delinquency jurisdiction over a youth in foster care who has reached 18 years of age until a hearing is conducted pursuant to this section and the department has submitted a report verifying that the following information, documents, and services have been provided to the child:

(1) Written information concerning the child's dependency case, including any known information regarding the child's Indian heritage or tribal connections, if applicable, his or her family history and placement history, any photographs of the child or his or her family in the possession of the county welfare department, other than forensic photographs, the whereabouts of any siblings under the jurisdiction of the juvenile court, unless the court determines that sibling contact would jeopardize the safety or welfare of the sibling, directions on how to access the documents the child is entitled to inspect under Section 827, and the date on which the jurisdiction of the juvenile court would be terminated.

(2) The following documents:

(A) Social security card.

(B) Certified copy of his or her birth certificate.

(C) Health and education summary, as described in subdivision (a) of Section 16010.

(D) Driver's license, as described in Section 12500 of the Vehicle Code, or identification card, as described in Section 13000 of the Vehicle Code.

(E) A letter prepared by the county welfare department that includes the following information:

(i) The child's name and date of birth.

(ii) The dates during which the child was within the jurisdiction of the juvenile court.

(iii) A statement that the child was a foster youth in compliance with state and federal financial aid documentation requirements.

(F) If applicable, the death certificate of the parent or parents.

(G) If applicable, proof of the child's citizenship or legal residence.

(3) Assistance in completing an application for Medi-Cal or assistance in obtaining other health insurance.

1 (4) Referrals to transitional housing, if available, or assistance
2 in securing other housing.

3 (5) Assistance in obtaining employment or other financial
4 support.

5 (6) Assistance in applying for admission to college or to a
6 vocational training program or other educational institution and
7 in obtaining financial aid, where appropriate.

8 (7) Assistance in maintaining relationships with individuals
9 who are important to a child who has been in out-of-home
10 placement for six months or longer from the date the child entered
11 foster care, based on the child's best interests.

12 (8) For nonminors between 18 and 21 years of age, assistance
13 in accessing the Independent Living Aftercare Program in the
14 nonminor's county of residence.

15 (f) At the hearing closest to and before a dependent child's 18th
16 birthday and every review hearing thereafter, the department shall
17 submit a report describing efforts toward completing the items
18 described in paragraph (2) of subdivision (e).

19 (g) The Judicial Council shall develop and implement standards,
20 and develop and adopt appropriate forms necessary to implement
21 this provision.

22 (h) This section shall become operative on January 1, 2012.

23 SEC. 29. Section 727.2 of the Welfare and Institutions Code
24 is amended to read:

25 727.2. The purpose of this section is to provide a means to
26 monitor the safety and well-being of every minor in foster care
27 who has been declared a ward of the juvenile court pursuant to
28 Section 601 or 602 and to ensure that everything reasonably
29 possible is done to facilitate the safe and early return of the minor
30 to his or her home or to establish an alternative permanent plan
31 for the minor.

32 (a) If the court orders the care, custody, and control of the minor
33 to be under the supervision of the probation officer for placement
34 pursuant to subdivision (a) of Section 727, the juvenile court shall
35 order the probation department to ensure the provision of
36 reunification services to facilitate the safe return of the minor to
37 his or her home or the permanent placement of the minor, and to
38 address the needs of the minor while in foster care, except as
39 provided in subdivision (b).

1 (b) Reunification services need not be provided to a parent or
2 legal guardian if the court finds by clear and convincing evidence
3 that one or more of the following is true:

4 (1) Reunification services were previously terminated for that
5 parent or guardian, pursuant to Section 366.21 or 366.22, or not
6 offered, pursuant to subdivision (b) of Section 361.5, in reference
7 to the same minor.

8 (2) The parent has been convicted of any of the following:

9 (A) Murder of another child of the parent.

10 (B) Voluntary manslaughter of another child of the parent.

11 (C) Aiding or abetting, attempting, conspiring, or soliciting to
12 commit that murder or manslaughter described in subparagraph
13 (A) or (B).

14 (D) A felony assault that results in serious bodily injury to the
15 minor or another child of the parent.

16 (3) The parental rights of the parent with respect to a sibling
17 have been terminated involuntarily, and it is not in the best interest
18 of the minor to reunify with his or her parent or legal guardian.

19 If no reunification services are offered to the parent or guardian,
20 the permanency planning hearing, as described in Section 727.3,
21 shall occur within 30 days of the date of the hearing at which the
22 decision is made not to offer services.

23 (c) The status of every minor declared a ward and ordered to
24 be placed in foster care shall be reviewed by the court no less
25 frequently than once every six months. The six-month time periods
26 shall be calculated from the date the minor entered foster care, as
27 defined in paragraph (4) of subdivision (d) of Section 727.4. If the
28 court so elects, the court may declare the hearing at which the court
29 orders the care, custody, and control of the minor to be under the
30 supervision of the probation officer for foster care placement
31 pursuant to subdivision (a) of Section 727 at the first status review
32 hearing. It shall be the duty of the probation officer to prepare a
33 written social study report including an updated case plan, pursuant
34 to subdivision (b) of Section 706.5, and submit the report to the
35 court prior to each status review hearing, pursuant to subdivision
36 (b) of Section 727.4. The social study report shall include all
37 reports the probation officer relied upon in making his or her
38 recommendations.

39 (d) Prior to any status review hearing involving a minor in the
40 physical custody of a community care facility or foster family

1 agency, the facility or agency may provide the probation officer
2 with a report containing its recommendations. Prior to any status
3 review hearing involving the physical custody of a foster parent,
4 relative caregiver, preadoptive parent, or legal guardian, that person
5 may present to the court a report containing his or her
6 recommendations. The court shall consider all reports and
7 recommendations filed pursuant to subdivision (c) and pursuant
8 to this subdivision.

9 (e) At any status review hearing prior to the first permanency
10 planning hearing, the court shall consider the safety of the minor
11 and make findings and orders which determine the following:

12 (1) The continuing necessity for and appropriateness of the
13 placement.

14 (2) The extent of the probation department's compliance with
15 the case plan in making reasonable efforts to safely return the
16 minor to the minor's home or to complete whatever steps are
17 necessary to finalize the permanent placement of the minor.

18 (3) Whether there should be any limitation on the right of the
19 parent or guardian to make educational decisions for the minor.
20 That limitation shall be specifically addressed in the court order
21 and may not exceed what is necessary to protect the minor. If the
22 court specifically limits the right of the parent or guardian to make
23 educational decisions for the minor, the court shall at the same
24 time appoint a responsible adult to make educational decisions for
25 the minor pursuant to Section 726.

26 (4) The extent of progress that has been made by the minor and
27 parent or guardian toward alleviating or mitigating the causes
28 necessitating placement in foster care.

29 (5) The likely date by which the minor may be returned to and
30 safely maintained in the home or placed for adoption, appointed
31 a legal guardian, permanently placed with a fit and willing relative
32 or referred to another planned permanent living arrangement.

33 (6) In the case of a minor who has reached 16 years of age, the
34 court shall, in addition, determine the services needed to assist the
35 minor to make the transition from foster care to independent living.

36 The court shall make these determinations on a case-by-case
37 basis and reference in its written findings the probation officer's
38 report and any other evidence relied upon in reaching its decision.

39 (f) At any status review hearing prior to the first permanency
40 hearing, the court shall order return of the minor to the physical

1 custody of his or her parent or legal guardian unless the court finds,
2 by a preponderance of evidence, that the return of the minor to his
3 or her parent or legal guardian would create a substantial risk of
4 detriment to the safety, protection, or physical or emotional
5 well-being of the minor. The probation department shall have the
6 burden of establishing that detriment. In making its determination,
7 the court shall review and consider the social study report,
8 recommendations, and the case plan pursuant to subdivision (b)
9 of Section 706.5, the report and recommendations of any child
10 advocate appointed for the minor in the case, and any other reports
11 submitted to the court pursuant to subdivision (d), and shall
12 consider the efforts or progress, or both, demonstrated by the minor
13 and family and the extent to which the minor availed himself or
14 herself of the services provided.

15 (g) At all status review hearings subsequent to the first
16 permanency planning hearing, the court shall consider the safety
17 of the minor and make the findings and orders as described in
18 paragraphs (1) to (4), inclusive, and (6) of subdivision (e). The
19 court shall either make a finding that the previously ordered
20 permanent plan continues to be appropriate or shall order that a
21 new permanent plan be adopted pursuant to subdivision (b) of
22 Section 727.3. However, the court shall not order a permanent plan
23 of “return to the physical custody of the parent or legal guardian
24 after further reunification services are offered,” as described in
25 paragraph (2) of subdivision (b) of Section 727.3.

26 (h) The status review hearings required by subdivision (c) may
27 be heard by an administrative review panel, provided that the
28 administrative panel meets all of the requirements listed in
29 subparagraph (B) of paragraph (7) of subdivision (d) of Section
30 727.4.

31 (i) On and after January 1, 2012, at the status review hearing at
32 which a recommendation to terminate delinquency jurisdiction is
33 being considered, or at the status review hearing held closest to
34 the ward attaining 18 years of age, or both, but no fewer than 60
35 days before the ward’s 18th birthday, the court shall consider
36 whether to modify its jurisdiction pursuant to Section 601 or 602
37 and assume jurisdiction over the child as a dependent pursuant to
38 subdivision (l) of Section 300. The probation department shall
39 address this issue in its report to the court and make a

1 recommendation as to whether dependency jurisdiction is
2 appropriate for the child.

3 (j) On and after January 1, 2012, if a review hearing pursuant
4 to this section is the last review hearing to be held before the minor
5 attains 18 years of age, the court shall ensure that the minor's
6 transitional independent living case plan includes a plan for the
7 minor to meet one or more of the criteria in Section 11403, so that
8 the minor can become a nonminor dependent, and that the minor
9 has been informed of his or her right to decline to enter into a
10 mutual agreement, as defined in subdivision (u) of Section 11400,
11 and of the consequences for the minor of entering or not entering
12 into such an agreement.

13 SEC. 29.5. Section 785 of the Welfare and Institutions Code
14 is amended to read:

15 785. (a) Where a minor is a ward of the juvenile court, the
16 wardship did not result in the minor's commitment to the Youth
17 Authority, and the minor is found not to be a fit and proper subject
18 to be dealt with under the juvenile court law with respect to a
19 subsequent allegation of criminal conduct, any parent or other
20 person having an interest in the minor, or the minor, through a
21 properly appointed guardian, the prosecuting attorney, or probation
22 officer, may petition the court in the same action in which the
23 minor was found to be a ward of the juvenile court for a hearing
24 for an order to terminate or modify the jurisdiction of the juvenile
25 court. The court shall order that a hearing be held and shall give
26 prior notice, or cause prior notice to be given, to those persons and
27 by the means prescribed by Sections 776 and 779, or where the
28 means of giving notice is not prescribed by those sections, then
29 by such means as the court prescribes.

30 (b) The petition shall be verified and shall state why jurisdiction
31 should be terminated or modified in concise language.

32 (c) In determining whether or not the wardship shall terminate
33 or be modified, the court shall be guided by the policies set forth
34 in Section 202.

35 (d) On and after January 1, 2012, at any hearing pursuant to this
36 section involving a minor who has been removed from the physical
37 custody of his or her parent or guardian and placed in foster care
38 for whom reunification with the parent or guardian would be
39 detrimental, the court shall consider whether to modify its

1 jurisdiction and declare the minor to be a dependent child, pursuant
2 to subdivision (l) of Section 300.

3 (e) In addition to its authority under this chapter, the Judicial
4 Council shall adopt rules providing criteria for the consideration
5 of the juvenile court in determining whether or not to terminate or
6 modify jurisdiction pursuant to this section.

7 SEC. 30. Section 10609.4 of the Welfare and Institutions Code
8 is amended to read:

9 10609.4. (a) On or before July 1, 2000, the State Department
10 of Social Services, in consultation with county and state
11 representatives, foster youth, and advocates, shall do both of the
12 following:

13 (1) Develop statewide standards for the implementation and
14 administration of the Independent Living Program established
15 pursuant to the federal Consolidated Omnibus Budget
16 Reconciliation Act of 1985 (Public Law 99-272).

17 (2) Define the outcomes for the Independent Living Program
18 and the characteristics of foster youth enrolled in the program for
19 data collection purposes.

20 (b) Each county department of social services shall include in
21 its annual Independent Living Program report both of the
22 following:

23 (1) An accounting of federal and state funds allocated for
24 implementation of the program. Expenditures shall be related to
25 the specific purposes of the program. Program purposes may
26 include, but are not limited to, all of the following:

27 (A) Enabling participants to seek a high school diploma or its
28 equivalent or to take part in appropriate vocational training, and
29 providing job readiness training and placement services, or building
30 work experience and marketable skills, or both.

31 (B) Providing training in daily living skills, budgeting, locating
32 and maintaining housing, and career planning.

33 (C) Providing for individual and group counseling.

34 (D) Integrating and coordinating services otherwise available
35 to participants.

36 (E) Providing each participant with a written transitional
37 independent living plan that will be based on an assessment of his
38 or her needs, that includes information provided by persons who
39 have been identified by the participant as important to the
40 participant in cases in which the participant has been in

1 out-of-home placement for six months or longer from the date the
2 participant entered foster care, consistent with the participant's
3 best interests, and that will be incorporated into his or her case
4 plan.

5 (F) Providing participants who are within 90 days of attaining
6 the age that would qualify the participant for federal financial
7 participation, as described in Section 11403, including those former
8 foster care youth receiving Independent Living Program Aftercare
9 Services, the opportunity to complete the exit transition plan as
10 required by paragraph (16) of subdivision (f) of Section 16501.1.

11 (G) Providing participants with other services and assistance
12 designed to improve independent living.

13 (H) Convening persons who have been identified by the
14 participant as important to him or her for the purpose of providing
15 information to be included in his or her written transitional
16 independent living plan.

17 (2) A detail of the characteristics of foster youth enrolled in
18 their independent living programs and the outcomes achieved
19 based on the information developed by the department pursuant
20 to subdivision (a).

21 (c) The county department of social services in a county that
22 provides transitional housing placement services pursuant to
23 paragraph (2) of subdivision (a) of Section 11403.2 shall include
24 in its annual Independent Living Program report a description of
25 currently available transitional housing resources in relation to the
26 number of emancipating pregnant or parenting foster youth in the
27 county, and a plan for meeting any unmet transitional housing
28 needs of the emancipating pregnant or parenting foster youth.

29 (d) In consultation with the department, a county may use
30 different methods and strategies to achieve the standards and
31 outcomes of the Independent Living Program developed pursuant
32 to subdivision (a).

33 (e) In consultation with the County Welfare Directors
34 Association, the California Youth Connection, and other
35 stakeholders, the department shall develop and adopt emergency
36 regulations, no later than July 1, 2012, in accordance with Section
37 11346.1 of the Government Code that counties shall be required
38 to meet when administering the Independent Living Program and
39 that are achievable within existing program resources and any
40 federal funds available for case management and case plan review

1 functions for nonminor dependents, as provided for in the federal
2 Fostering Connections to Success and Increasing Adoptions Act
3 of 2008 (Public Law 110-351). The initial adoption of emergency
4 regulations and one readoption of the initial regulations shall be
5 deemed to be an emergency and necessary for the immediate
6 preservation of the public peace, health and safety, or general
7 welfare. Initial emergency regulations and the first readoption of
8 those regulations shall be exempt from review by the Office of
9 Administrative Law. The initial emergency regulations and the
10 first readoption of those regulations authorized by this subdivision
11 shall be submitted to the Office of Administrative Law for filing
12 with the Secretary of State and each shall remain in effect for no
13 more than 180 days.

14 (f) The department, in consultation with representatives of the
15 Legislature, the County Welfare Directors Association, the Chief
16 Probation Officers of California, the Judicial Council,
17 representatives of tribes, the California Youth Connection, former
18 foster youth, child advocacy organizations, labor organizations,
19 dependency counsel for children, juvenile justice advocacy
20 organizations, foster caregiver organizations, and researchers, shall
21 review and develop modifications needed to the Independent Living
22 Program to also serve the needs of nonminor dependents, as defined
23 in subdivision (v) of Section 11400, eligible for services pursuant
24 to Section 11403. These modifications shall include the exit
25 transition plan required to be completed within the 90-day period
26 immediately prior to the date the nonminor participant attains the
27 age that would qualify the participant for federal financial
28 participation, as described in Section 11403, pursuant to Section
29 675(5)(H) of Title 42 of the United States Code. Notwithstanding
30 the Administrative Procedure Act, Chapter 3.5 (commencing with
31 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
32 Code, through June 30, 2012, the department shall prepare for
33 implementation of the applicable provisions of this section by
34 publishing all-county letters or similar instructions from the director
35 by July 1, 2011, which shall be applicable from January 1, 2012,
36 to June 30, 2012, inclusive.

37 SEC. 31. Section 11008.15 of the Welfare and Institutions
38 Code is amended to read:

39 11008.15. Notwithstanding Sections 11008.14 and 11267, the
40 department shall exercise the options of disregarding earned income

1 of a dependent child or ward of the juvenile court derived from
2 participation in the Job Training Partnership Act of 1982 (Public
3 Law 97-300), a dependent child or ward of the juvenile court who
4 is a full-time student pursuant to the Deficit Reduction Act of 1984
5 (Public Law 97-369), a dependent child or ward of the juvenile
6 court 16 years of age or older who is a participant in the
7 Independent Living Program pursuant to the Consolidated Omnibus
8 Budget Reconciliation Act of 1985 (Public Law 99-272), and, on
9 and after January 1, 2012, a nonminor dependent, as defined in
10 subdivision (v) of Section 11400 who is participating in a
11 transitional independent living case plan pursuant to the federal
12 Fostering Connections to Success and Increasing Adoptions Act
13 of 2008 (Public Law 110-351), provided that the child's
14 Independent Living Program case plan states that the purpose of
15 the employment is to enable the child to gain knowledge of needed
16 work skills, work habits, and the responsibilities of maintaining
17 employment.

18 SEC. 32. Section 11155.5 of the Welfare and Institutions Code
19 is amended to read:

20 11155.5. (a) In addition to the personal property permitted by
21 other provisions of this part, a child declared a ward or dependent
22 child of the juvenile court, who is 16 years of age or older, or, on
23 and after January 1, 2012 a nonminor dependent, as defined in
24 subdivision (v) of Section 11400, who is participating in a
25 transitional independent living case plan pursuant to the federal
26 Fostering Connections to Success and Increasing Adoptions Act
27 of 2008 (Public Law 110-351), may retain resources with a
28 combined value of not more than ten thousand dollars (\$10,000),
29 consistent with Section 472(a) of the federal Social Security Act
30 (42 U.S.C. Sec. 672(a)) as contained in the federal Foster Care
31 Independence Act of 1999 (Public Law 106-169) and the child's
32 transitional independent living plan. Any cash savings shall be the
33 child's own money and shall be deposited by the child or on behalf
34 of the child in any bank or savings and loan institution whose
35 deposits are insured by the Federal Deposit Insurance Corporation
36 or the Federal Savings and Loan Insurance Corporation. The cash
37 savings shall be for the child's use for purposes directly related to
38 the child's or nonminor dependents' transitional independent living
39 case plan goals.

1 (b) The withdrawal of the savings by a child shall require the
2 written approval of the child's probation officer or social worker
3 and shall be directly related to the goal of emancipation. This
4 written approval is not required for withdrawals by a nonminor
5 dependent.

6 SEC. 32.5. Section 11217 is added to the Welfare and
7 Institutions Code, to read:

8 11217. (a) The Director of Social Services shall execute a
9 declaration stating that increased federal financial participation in
10 the Emergency Contingency Fund for State Temporary Assistance
11 for Needy Families (TANF) Programs is no longer available
12 pursuant to the federal American Recovery and Reinvestment Act
13 of 2009 (ARRA) (Public Law 111-5) or subsequent federal
14 legislation, including an amendment to the ARRA, that maintains
15 or extends increased federal financial participation.

16 (b) The director shall provide a copy of the declaration to the
17 appropriate policy and fiscal committees of the Legislature.

18 SEC. 33. Section 11253 of the Welfare and Institutions Code
19 is amended to read:

20 11253. (a) ~~Aid~~ *Except as provided in subdivision (b), aid* shall
21 not be granted under this chapter to or on behalf of any child who
22 has attained 18 years of age unless all of the following apply:

23 (1) The child is less than 19 years of age and is attending high
24 school or the equivalent level of vocational or technical training
25 on a full-time basis.

26 (2) The child can reasonably be expected to complete the
27 educational or training program before his or her 19th birthday.

28 (b) On and after January 1, 2012, aid shall be granted under this
29 chapter to or on behalf of any nonminor dependent, as defined in
30 subdivision (v) of Section 11400, if the nonminor dependent is
31 placed in the approved home of a relative under the supervision
32 of the county child welfare or probation department or Indian tribe
33 that has entered into an agreement pursuant to Section 10553.1,
34 and the nonminor dependent otherwise meets the criteria of Section
35 11403.

36 SEC. 34. Article 4.5 (commencing with Section 11360) is
37 added to Chapter 2 of Part 3 of Division 9 of the Welfare and
38 Institutions Code, to read:

1 Article 4.5. Kinship Guardianship Assistance Payment Program

2
3 11360. Effective on the date that the director executes a
4 declaration pursuant to Section 11217, the department shall
5 establish a state-funded Kinship Guardianship Assistance Payment
6 Program as specified in this article.

7 11361. The Legislature finds and declares that the continuation
8 of the state-funded Kinship Guardianship Assistance Payment
9 Program is intended to enhance family preservation and stability
10 by recognizing that some dependent children and wards of the
11 juvenile court who are not otherwise eligible under Subtitle IV-E
12 (commencing with Section 470) of the federal Social Security Act
13 (42 U.S.C. Sec. 670 et seq.) are in long-term, stable placements
14 with relatives funded under the CalWORKs program pursuant to
15 Section 11450, that these placements are the permanent plan for
16 the child, that dependencies can be dismissed pursuant to Section
17 366.3 with legal guardianship granted to the relative, and that there
18 is no need for continued governmental intervention in the family
19 life through ongoing, scheduled court and social services
20 supervision of the placement. Continuation of the state-funded
21 Kin-GAP Program is necessary to ensure that wards and dependent
22 children of the juvenile court whose placement in the home of an
23 approved relative is funded under the CalWORKs program are
24 equally eligible for the benefits derived from legal permanency
25 with the related guardian and that the state can maximize
26 improvements to federal permanency outcome measures by exiting
27 nonfederally eligible youth to the state's subsidized kinship
28 guardianship program.

29 11362. For purposes of this article, the following definitions
30 shall apply:

31 (a) "Kinship Guardianship Assistance Payments (Kin-GAP)"
32 means the state-funded aid provided under the terms of this article
33 on behalf of children in kinship care who are not eligible for
34 federally funded Kin-GAP pursuant to Section 11385.

35 (b) "Kinship guardian" means a person who (1) has been
36 appointed the legal guardian of a dependent child pursuant to
37 Section 366.26 and (2) is a relative of the child.

38 (c) "Relative" means an adult who is related to the child by
39 blood, adoption, or affinity within the fifth degree of kinship,
40 including stepparents, stepsiblings, and all relatives whose status

1 is preceded by the words “great,” “great-great,” or “grand” or the
2 spouse of any of those persons even if the marriage was terminated
3 by death or dissolution.

4 11363. (a) Aid in the form of state-funded Kin-GAP shall be
5 provided under this article on behalf of any child under 18 years
6 of age and to any eligible youth under 19 years of age as provided
7 in Section 11403, who meets all of the following conditions:

8 (1) Has been adjudged a dependent child of the juvenile court
9 pursuant to Section 300, or, effective October 1, 2006, a ward of
10 the juvenile court pursuant to Section 601 or 602.

11 (2) Has been living with ~~a~~ *an approved* relative for at least six
12 consecutive months.

13 (3) Has had a kinship guardianship with that relative established
14 as the result of the implementation of a permanent plan pursuant
15 to Section 366.26.

16 (4) Has had his or her dependency jurisdiction terminated after
17 January 1, 2000, pursuant to Section 366.3, or his or her wardship
18 terminated pursuant to subdivision (e) of Section 728, concurrently
19 or subsequently to the establishment of the kinship guardianship.

20 (b) If the conditions specified in subdivision (a) are met and,
21 subsequent to the termination of dependency jurisdiction, any
22 parent or person having an interest files with the juvenile court a
23 petition pursuant to Section 388 to change, modify, or set aside an
24 order of the court, Kin-GAP payments shall continue unless and
25 until the juvenile court, after holding a hearing, orders the child
26 removed from the home of the guardian, terminates the
27 ~~guardianship, or otherwise grants the relief requested in the~~
28 ~~petition.~~ *guardianship, or maintains dependency jurisdiction after*
29 *the court concludes the hearing on the petition filed under Section*
30 *388.*

31 (c) Through December 31, 2011, Kin-GAP payments shall
32 continue after the child’s 18th birthday if the conditions specified
33 in Section 11403 are met.

34 (d) Commencing January 1, 2012, state-funded Kin-GAP
35 payments shall continue for youths who have attained 18 years of
36 age and are under 19 years of age if they attained 16 years of age
37 before the Kin-GAP aid payments commenced. Effective January
38 1, 2013, Kin-GAP payments shall continue for youths who have
39 attained 18 years of age and who are under 20 years of age, if they
40 reached 16 years of age before the Kin-GAP negotiated payments

1 commenced. Effective January 1, 2014, Kin-GAP payments shall
2 continue for youths who have attained 18 years of age and are
3 under 21 years of age, if they reached 16 years of age before the
4 Kin-GAP negotiated payments commenced. To be eligible for
5 continued payments, the youth shall meet one or more of the
6 following criteria:

7 ~~(1) The youth is completing secondary education or a program~~
8 ~~leading to an equivalent credential.~~

9 ~~(2) The youth is enrolled in an institution that provides~~
10 ~~postsecondary or vocational education.~~

11 ~~(3) The youth is participating in a program or activity designed~~
12 ~~to promote, or remove barriers to, employment.~~

13 ~~(4) The youth is employed for at least 80 hours per month.~~

14 ~~(5) The youth is incapable of doing any of the activities~~
15 ~~described in paragraphs (1) to (4), inclusive, due to a medical~~
16 ~~condition and the incapability is supported by regularly updated~~
17 ~~information in the case plan of the youth. conditions specified in~~
18 ~~subdivision (b) of Section 11403.~~

19 (e) Termination of the guardianship with a kinship guardian
20 shall terminate eligibility for Kin-GAP unless the conditions in
21 Section 11403 apply; provided, however, that if an alternate
22 guardian or coguardian is appointed pursuant to Section 366.3 who
23 is also a kinship guardian, the alternate or coguardian shall be
24 entitled to receive Kin-GAP on behalf of the child pursuant to this
25 article. A new period of six months of placement with the alternate
26 guardian or coguardian shall not be required if that alternate
27 guardian or coguardian has been assessed pursuant to Sections
28 361.3 and 361.4 and the court terminates dependency jurisdiction.

29 11364. (a) In order to receive payments under this article, the
30 county child welfare agency, probation department, or Indian tribe
31 that has entered into an agreement pursuant to Section 10553.1,
32 shall negotiate and enter into a written, binding, kinship
33 guardianship assistance agreement with the relative guardian of
34 an eligible child, and provide the relative guardian with a copy of
35 the agreement.

36 (b) The agreement shall specify, at a minimum, all of the
37 following:

38 (1) The amount of and manner in which the kinship guardianship
39 assistance payment will be provided under the agreement, and the
40 manner in which the agreement may be adjusted periodically, but

1 no less frequently than every two years, in consultation with the
2 relative guardian, based on the circumstances of the relative
3 guardian and the needs of the child.

4 (2) Additional services and assistance for which the child and
5 relative guardian will be eligible under the agreement.

6 (3) A procedure by which the relative guardian may apply for
7 additional services, as needed, including the filing of a petition
8 under Section 388 to have dependency jurisdiction resumed
9 pursuant to subdivision (b) of Section 366.3.

10 (c) In accordance with the Kin-GAP agreement, the relative
11 guardian shall be paid an amount of aid based on the child's needs
12 otherwise covered in AFDC-FC payments and the circumstances
13 of the relative guardian, but that shall not exceed the foster care
14 maintenance payment that would have been paid based on the
15 age-related state-approved foster family home care rate and any
16 applicable specialized care increment for a child placed in a
17 licensed or approved family home pursuant to subdivisions (a) to
18 (d), inclusive, of Section 11461. In addition, the rate paid for a
19 child eligible for a Kin-GAP payment shall include an amount
20 equal to the clothing allowance, as set forth in subdivision (f) of
21 Section 11461, including any applicable rate adjustments. For a
22 child eligible for a Kin-GAP payment who is a teen parent, the
23 rate shall include the two hundred dollar (\$200) monthly payment
24 made to the relative caregiver in a whole family foster home
25 pursuant to paragraph (3) of subdivision (d) of Section 11465.

26 (d) The county child welfare agency, probation department, or
27 Indian tribe that entered into an agreement pursuant to Section
28 10553.1 shall provide the prospective relative guardian with
29 information, in writing, on the availability of the Kin-GAP program
30 with an explanation of the difference between these benefits and
31 Adoption Assistance Program benefits and AFDC-FC benefits.
32 The agency shall also provide the prospective relative guardian
33 with information on the availability of mental health services
34 through the Medi-Cal program or other programs.

35 (e) The Kin-GAP agreement shall also specify the responsibility
36 of the relative guardian for reporting changes in the needs of the
37 child or the circumstances of the relative guardian that affect
38 payment.

39 (f) The county child welfare agency, probation department, or
40 Indian tribe, as appropriate, shall assess the needs of the child and

1 the circumstances of the related guardian and is responsible for
2 determining that the child meets the eligibility criteria for payment.

3 (g) Payments on behalf of a child who is a recipient of Kin-GAP
4 benefits and who is also a consumer of regional center services
5 shall be based on the rates established by the State Department of
6 Social Services pursuant to Section 11464.

7 11365. State-funded Kin-GAP benefits shall be paid to the
8 kinship guardian on a per child basis. If the conditions in Section
9 11403 ~~or 11403.01~~ apply, the payment in whole or in part may be
10 paid to the eligible nonminor directly, *as specified in subdivision*
11 *(d) of Section 11403.*

12 11366. A child who is eligible to receive Medi-Cal benefits
13 with no share of cost shall maintain that eligibility notwithstanding
14 the receipt of state-funded Kin-GAP by his or her kinship guardian.

15 11367. State-funded Kin-GAP, in an amount equal to the
16 applicable regional per-child CalWORKs grant, shall be paid by
17 the state. The supplemental clothing allowance shall be paid
18 pursuant to paragraph (5) of subdivision (f) of Section 11461. The
19 balance of Kin-GAP shall be paid in equal portions by the state
20 and the counties. Notwithstanding Section 11216, effective July
21 1, 2006, the state share of benefits and administration of the
22 state-funded Kin-GAP Program shall be funded with General Fund
23 resources.

24 11369. (a) Notwithstanding the Administrative Procedure Act,
25 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
26 3 of Title 2 of the Government Code, the department may
27 implement the applicable provisions of the state-funded Kin-GAP
28 Program through all-county letters or similar instructions from the
29 director.

30 (b) The director shall adopt regulations as otherwise necessary,
31 to implement the applicable provisions of the Kin-GAP Program.
32 Emergency regulations to implement the applicable provisions of
33 this act may be adopted by the director in accordance with the
34 Administrative Procedure Act. The initial adoption of the
35 emergency regulations and one readoption of the initial regulations
36 shall be deemed to be an emergency and necessary for the
37 immediate preservation of the public peace, health, safety or
38 general welfare. Initial emergency regulations and the first
39 readoption of those emergency regulations shall be exempt from
40 review by the Office of Administrative Law. The emergency

1 regulations authorized by this section shall be submitted to the
2 Office of Administrative Law for filing with the Secretary of State
3 and shall remain in effect for no more than 180 days.

4 11370. The county welfare department or probation department
5 or Indian tribe, as appropriate, at the time of the Kin-GAP annual
6 redetermination, shall meet with the relative guardian and the
7 nonfederally eligible child and enter into an agreement for
8 state-funded Kin-GAP as described in Section 11364. This process
9 shall continue for at least 12 calendar months or until all
10 state-funded Kin-GAP cases as of the effective date described have
11 been processed.

12 11371. Income to the child, including the state-funded Kin-GAP
13 payment, shall not be considered income to the kinship guardian
14 for purposes of determining the kinship guardian's eligibility for
15 any other aid program, unless required by federal law as a condition
16 of the receipt of federal financial participation.

17 11372. (a) Notwithstanding any other provision of law, the
18 state-funded Kinship Guardianship Assistance Payment Program
19 implemented under this article is exempt from the provisions of
20 Chapter 2 (commencing with Section 11200) of Part 3.

21 (b) A person who is a kinship guardian under this article, and
22 who has met the requirements of Section 361.4, shall be exempt
23 from Chapter 4.6 (commencing with Section 10830) of Part 2
24 governing the statewide fingerprint imaging system. A guardian
25 who is also an applicant for or a recipient of benefits under the
26 CalWORKs program, Chapter 2 (commencing with Section 11200)
27 of Part 3, or the Food Stamp program, Chapter 10 (commencing
28 with Section 18900) of Part 6 shall comply with the statewide
29 fingerprint imaging system requirements applicable to those
30 programs.

31 (c) Any exemptions exercised pursuant to this section shall be
32 implemented in accordance with Section 11369.

33 11374. (a) Each county that formally had court ordered
34 jurisdiction under Section 300, 601, or 602 over a child receiving
35 benefits under the state-funded Kin-GAP program shall be
36 responsible for paying the child's aid regardless of where the child
37 actually resides, so long as the child resides in California.

38 (b) Notwithstanding any other provision of law, when a child
39 receiving benefits under the CalWORKs program becomes eligible
40 for benefits under the state-funded Kin-GAP program during any

1 month, the child shall continue to receive benefits under the CalWORKs program, as appropriate, to the end of that calendar month, and Kin-GAP payments shall begin the first day of the following month.

11375. The following shall apply to any child or nonminor in receipt of state-funded Kin-GAP benefits:

(a) He or she is eligible to request and receive independent living services pursuant to Section 10609.3.

(b) He or she may retain cash savings, not to exceed ten thousand dollars (\$10,000), including interest, in addition to any other property accumulated pursuant to Section 11257 or 11257.5.

(c) He or she shall have earned income disregarded pursuant to Section 11008.15.

11376. A foster child who has become the subject of a legal guardianship, who is receiving assistance under the Kin-GAP Program under this article or under Article 4.7 (commencing with Section 11385), including Medi-Cal, and whose foster care court supervision has been terminated, shall be provided medically necessary specialty mental health services by the local mental health plan in the county of residence of his or her legal guardian, pursuant to all of the following:

(a) The host county mental health plan shall be responsible for submitting the treatment authorization request (TAR) to the mental health plan in the county of origin.

(b) The requesting public or private service provider shall prepare the TAR.

(c) The county of origin shall retain responsibility for authorization and reauthorization of services utilizing an expedited TAR process.

11378. (a) It is the intent of the Legislature to provide a seamless and minimally intrusive process to allow an otherwise federally eligible child who is receiving assistance payments under this article to access the benefits of federally funded Kin-GAP pursuant to Article 4.7 (commencing with Section 11385). The transition to federally funded Kin-GAP shall be accomplished with minimal disruption to the existing relative guardian and the child, and with no break in the continuity of assistance payments.

(b) Effective on the date that the director executes the declaration described in Section 11379, at the time of the annual redetermination of the state-funded Kin-GAP benefits, the county

1 shall determine whether the child was receiving federal AFDC-FC
2 payments prior to receiving Kin-GAP, while a dependent child or
3 ward of the juvenile court. Those children determined to have
4 previously received AFDC-FC payments shall be reassigned to
5 the county social worker, who shall inform the relative guardian,
6 and the child if over 12 years of age, of the benefits of transitioning
7 to federal Kin-GAP and the process for making the transition. The
8 process described in this subdivision shall continue for at least 12
9 calendar months, or until all state-funded Kin-GAP cases as of the
10 effective date described in this subdivision have been processed.

11 (c) Upon completion of the negotiated Kin-GAP agreement, the
12 child shall be eligible for federally funded Kin-GAP pursuant to
13 Article 4.7 (commencing with Section 11385).

14 (d) The county shall terminate the state-funded Kin-GAP
15 payment made pursuant to the former Article 4.5 (commencing
16 with Section 11360), and with no break in the continuity of aid,
17 shall commence payments under the federal Kin-GAP program
18 pursuant to Article 4.7 (commencing with Section 11385).

19 11379. This article shall become operative on the date that the
20 Director of Social Services executes the declaration required
21 pursuant to Section 11217, stating that increased federal financial
22 participation from the Emergency Contingency Fund for State
23 Temporary Assistance for Needy Families (TANF) Programs is
24 no longer available pursuant to the federal American Recovery
25 and Reinvestment Act of 2009 (ARRA) (Public Law 111-5) or
26 subsequent federal legislation, including an amendment to the
27 ARRA, that maintains or extends increased federal financial
28 participation.

29 SEC. 35. Section 11363 of the Welfare and Institutions Code
30 is amended to read:

31 11363. (a) Aid in the form of Kin-GAP shall be provided under
32 this article on behalf of any child under 18 years of age who meets
33 all of the following conditions:

34 (1) Has been adjudged a dependent child of the juvenile court
35 pursuant to Section 300, or, effective October 1, 2006, a ward of
36 the juvenile court pursuant to Section 601 or 602.

37 (2) Has been living with a relative for at least six consecutive
38 months.

1 (3) Has had a kinship guardianship with that relative established
2 as the result of the implementation of a permanent plan pursuant
3 to Section 366.26.

4 (4) Has had his or her dependency dismissed after January 1,
5 2000, pursuant to Section 366.3, or his or her wardship terminated
6 pursuant to subdivision (e) of Section 728, concurrently or
7 subsequently to the establishment of the kinship guardianship.

8 (b) Kin-GAP payments shall continue after the child's 18th
9 birthday if the conditions specified in Section 11403 are met.

10 (c) Termination of the guardianship with a kinship guardian
11 shall terminate eligibility for Kin-GAP; provided, however, that
12 if an alternate guardian or coguardian is appointed pursuant to
13 Section 366.3 who is also a kinship guardian, the alternate or
14 coguardian shall be entitled to receive Kin-GAP on behalf of the
15 child pursuant to this article. A new period of six months of
16 placement with the alternate guardian or coguardian shall not be
17 required if that alternate guardian or coguardian has been assessed
18 pursuant to Section 361.3 and the court terminates dependency
19 jurisdiction.

20 (d) If the conditions specified in subdivisions (a) to (c),
21 inclusive, are met and, subsequent to the termination of dependency
22 jurisdiction, a parent or person having an interest files with the
23 juvenile court a petition pursuant to Section 388 to change, modify,
24 or set aside an order of the court, Kin-GAP payments shall continue
25 unless and until the juvenile court orders the child removed from
26 the home of the guardian, terminates the guardianship, or otherwise
27 grants the relief requested in the petition, after holding a hearing.

28 SEC. 36. Section 11376 of the Welfare and Institutions Code
29 is amended to read:

30 11376. A foster child who has become the subject of a legal
31 guardianship, who is receiving assistance under the Kin-Gap
32 Program, including Medi-Cal, and whose foster care court
33 supervision has been terminated, shall be provided medically
34 necessary specialty mental health services by the local mental
35 health plan in the county of residence of his or her legal guardian,
36 pursuant to all of the following:

37 (a) The host county mental health plan shall be responsible for
38 submitting the treatment authorization request (TAR) to the mental
39 health plan in the county of origin.

1 (b) The requesting public or private service provider shall
2 prepare the TAR.

3 (c) The county of origin shall retain responsibility for
4 authorization and reauthorization of services utilizing an expedited
5 TAR process.

6 (d) This article shall become inoperative on the date that the
7 Director of Social Services executes the declaration required
8 pursuant to Section 11217, stating that increased federal financial
9 participation in the Emergency Contingency Fund for State
10 Temporary Assistance for Needy Families (TANF) Programs is
11 no longer available pursuant to the federal American Recovery
12 and Reinvestment Act of 2009 (ARRA) (Public Law 111-5) or
13 subsequent federal legislation, including an amendment to the
14 ARRA, that maintains or extends increased federal financial
15 participation and as of the January 1 immediately following that
16 date is repealed.

17 SEC. 37. Article 4.7 (commencing with Section 11385) is
18 added to Chapter 2 of Part 3 of Division 9 of the Welfare and
19 Institutions Code, to read:

20
21 Article 4.7. Kinship Guardianship Assistance Payments for
22 Children
23

24 11385. (a) On and after the date that the director executes a
25 declaration pursuant to Section 11217, the State Department of
26 Social Services shall exercise its option under Section 671(a)(28)
27 of Title 42 of the United States Code to enter into kinship
28 guardianship assistance agreements to provide federally funded
29 kinship guardianship assistance payments on behalf of children to
30 grandparents and other relatives who have assumed legal
31 guardianship of the children for whom they have cared as approved
32 relative caregivers and for whom they have committed to care on
33 a permanent basis, as provided in Section 673(d) of Title 42 of the
34 United States Code.

35 (b) A kinship guardianship assistance payment made under this
36 article on behalf of a child shall not exceed the rate for children
37 placed in a licensed or approved home pursuant to Section 11461.

38 (c) It is the intent of the Legislature to ensure that relative
39 guardians of children in long-term, stable placements who
40 previously were receiving kinship guardianship assistance

1 payments on behalf of those children under Article 4.5
2 (commencing with Section 11360) shall instead receive assistance
3 under this article to the extent that those children are otherwise
4 eligible under Subtitle IV-E (commencing with Section 470 of the
5 federal Social Security Act (42 U.S.C. Sec. 670 et seq.)).

6 (d) It is the intent of the Legislature that no county currently
7 participating in the Child Welfare Demonstration Capped
8 Allocation Project be adversely impacted by the department's
9 exercise of its option under Section 671(a)(28) of Title 42 of the
10 United States Code to enter into kinship assistance agreements as
11 provided in Section 673(d) of Title 42 of the United States Code.
12 Therefore, the department shall negotiate with the United States
13 Department of Health and Human Services on behalf of those
14 counties that are currently participating in the demonstration project
15 to insure that those counties receive reimbursement for these new
16 programs outside of the provisions of those counties' waiver under
17 Subtitle IV-E (commencing with Section 470 of the federal Social
18 Security Act (42 U.S.C. Sec. 670 et seq.)).

19 11386. Aid shall be provided under this article on behalf of a
20 child under 18 years of age, and to any eligible youth under 19
21 years of age, as provided in Section 11403, under all of the
22 following conditions:

23 (a) The child meets both of the following requirements:

24 (1) He or she has been removed from his or her home pursuant
25 to a voluntary placement agreement, or as a result of judicial
26 determination, including being adjudged a dependent child of the
27 court, pursuant to Section 300, or a ward of the court, pursuant to
28 Section 601 or 602, to the effect that continuation in the home
29 would be contrary to the welfare of the child.

30 (2) He or she has been eligible for federal foster care
31 maintenance payments under Article 5 (commencing with Section
32 11400) while residing for at least six consecutive months in the
33 approved home of the prospective relative guardian.

34 (b) Being returned to the parental home or adopted are not
35 appropriate permanency options for the child.

36 (c) The child demonstrates a strong attachment to the relative
37 guardian, and the relative guardian has a strong commitment to
38 caring permanently for the child and, with respect to the child who
39 has attained 12 years of age, the child has been consulted regarding
40 the kinship guardianship arrangement.

(d) The child has had a kinship guardianship with that relative established as the result of the implementation of a permanent plan pursuant to Section 360 or Section 366.26.

(e) The child has had his or her dependency jurisdiction terminated pursuant to Section 366.3, or his or her wardship terminated pursuant to subdivision (e) of Section 728, concurrently or subsequently to the establishment of the kinship guardianship.

(f) If the conditions specified in subdivisions (a) through (e), inclusive, are met and, subsequent to the termination of dependency jurisdiction, any parent or person having an interest files with the juvenile court a petition pursuant to Section 388 to change, modify, or set aside an order of the court, Kin-GAP payments shall continue unless and until the juvenile court orders the child removed from the home of the guardian, terminates the guardianship, or otherwise grants the relief requested in the petition after holding a hearing. *maintains dependency jurisdiction after the court concludes the hearing on the petition filed under Section 388.*

(g) Through December 31, 2011, Kin-GAP payments shall continue after the child's 18th birthday if the conditions specified in Section 11403 are met. Effective January 1, 2012, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 19 years of age if they attained 16 years of age before the Kin-GAP negotiated agreement payments commenced. Effective January 1, 2013, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 20 years of age, if they reached 16 years of age before the Kin-GAP negotiated payments commenced. Effective January 1, 2014, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 21 years of age, if they reached 16 years of age before the Kin-GAP negotiated payments commenced. To be eligible for continued payments, the youth shall meet one or more of the following criteria:

~~(1) The youth is completing secondary education or a program leading to an equivalent credential.~~

~~(2) The youth is enrolled in an institution which provides postsecondary or vocational education.~~

~~(3) The youth is participating in a program or activity designed to promote, or remove barriers to, employment.~~

~~(4) The youth is employed for at least 80 hours per month.~~

1 ~~(5) The youth is incapable of doing any of the activities~~
2 ~~described in paragraphs (1) through (4), inclusive, due to a medical~~
3 ~~condition, and that incapability is supported by regularly updated~~
4 ~~information in the case plan of the youth. conditions specified in~~
5 ~~subdivision (d) of Section 11403.~~

6 Payments made to a nonminor pursuant to the conditions
7 specified in Section 11403 ~~or 11403.01~~ may be paid in whole or
8 part to the eligible youth directly, *as specified in subdivision (d)*
9 *of Section 11403.*

10 (h) Termination of the guardianship with a kinship guardian
11 shall terminate eligibility for Kin-GAP, unless the conditions of
12 Section 11403 apply, provided, however, that if an alternate
13 guardian or coguardian is appointed pursuant to Section 366.3 who
14 is also a kinship guardian, the alternate or coguardian shall be
15 entitled to receive Kin-GAP on behalf of the child pursuant to this
16 article. A new period of six months of placement with the alternate
17 guardian or coguardian shall not be required if that alternate
18 guardian or coguardian has been assessed pursuant to Section 361.3
19 and Section 361.4 and the court terminates dependency jurisdiction.

20 11387. (a) In order to receive federal financial participation
21 for payments under this article, the county child welfare agency
22 or probation department or Indian tribe that entered into an
23 agreement pursuant to Section 10553.1 shall negotiate and enter
24 into a written, binding, kinship guardianship assistance agreement
25 with the relative guardian of an eligible child, and provide the
26 relative guardian with a copy of the agreement.

27 (b) The agreement shall specify, at a minimum, all of the
28 following:

29 (1) The amount of and manner in which the kinship guardianship
30 assistance payment will be provided under the agreement, and the
31 manner in which the agreement may be adjusted periodically, but
32 no less frequently than every two years, in consultation with the
33 relative guardian, based on the circumstances of the relative
34 guardian and the needs of the child.

35 (2) Additional services and assistance for which the child and
36 relative guardian will be eligible under the agreement.

37 (3) A procedure by which the relative guardian may apply for
38 additional services, as needed, including, but not limited to, the
39 filing of a petition under Section 388 to have dependency
40 jurisdiction resumed pursuant to subdivision (b) of Section 366.3.

1 (c) The agreement shall provide that it shall remain in effect
2 regardless of the state of residency of the relative guardian.

3 (d) In accordance with the Kin-GAP agreement, the relative
4 guardian shall be paid an amount of aid based on the child's needs
5 otherwise covered in AFDC-FC payments and the circumstances
6 of the relative guardian but that shall not exceed the foster care
7 maintenance payment that would have been paid based on the
8 age-related state-approved foster family home care rate and any
9 applicable specialized care increment for a child placed in a
10 licensed or approved family home pursuant to subdivisions (a) to
11 (d), inclusive, of Section 11461. In addition, the rate paid for a
12 child eligible for a Kin-GAP payment shall include an amount
13 equal to the clothing allowance, as set forth in subdivision (f) of
14 Section 11461, including any applicable rate adjustments. For a
15 child eligible for a Kin-GAP payment who is a teen parent, the
16 rate shall include the two hundred dollar (\$200) monthly payment
17 made to the relative caregiver in a whole family foster home
18 pursuant to paragraph (3) of subdivision (d) of Section 11465.

19 (e) The county child welfare agency or probation department
20 or Indian tribe that entered into an agreement pursuant to Section
21 10553.1 shall provide the prospective relative guardian with
22 information, in writing, on the availability of the federal Kin-GAP
23 program with an explanation of the difference between these
24 benefits and Adoption Assistance Program benefits and AFDC-FC
25 benefits. The agency shall also provide the prospective relative
26 guardian with information on the availability of mental health
27 services through the Medi-Cal program or other programs.

28 (f) The Kin-GAP agreement shall also specify the responsibility
29 of the relative guardian for reporting changes in the needs of the
30 child or the circumstances of the relative guardian that affect
31 payment.

32 (g) The county child welfare agency, probation department, or
33 Indian tribe, as appropriate, shall assess the needs of the child and
34 the circumstances of the related guardian and is responsible for
35 determining that the child meets the eligibility criteria for payment.

36 (h) Payments on behalf of a child who is a recipient of Kin-GAP
37 benefits and who is also a consumer of regional center services
38 shall be based on the rates established by the State Department of
39 Social Services pursuant to Section 11464.

1 11388. If a federally eligible child described in Section 11386
2 has one or more siblings who are not so described, the child and
3 any sibling of the child may be placed in the same kinship
4 guardianship arrangement, in accordance with Section 671(a)(31)
5 of Title 42 of the United States Code, if the county child welfare
6 department or probation department or Indian tribe that entered
7 into an agreement pursuant to Section 10553.1 and the prospective
8 relative guardian agree on the appropriateness of the arrangement
9 for the siblings. Kinship guardianship assistance payments may
10 be paid on behalf of each sibling, at a per-child rate, placed in
11 accordance with this section.

12 11389. A child eligible for a Kin-GAP payment under this
13 article is categorically eligible for Medi-Cal at no share of cost
14 pursuant to Section 473(b)(3) of the federal Social Security Act
15 (42 U.S.C. Sec. 673(b)(3)).

16 11390. (a) A person who is a kinship guardian under this
17 article, and who has met the requirements of Section 361.4, shall
18 be exempt from Chapter 4.6 (commencing with Section 10830)
19 of Part 2 governing the statewide fingerprint imaging system. A
20 guardian who is also an applicant for or a recipient of benefits
21 under the CalWORKS program, Chapter 2 (commencing with
22 Section 11200) of Part 3, or the Food Stamp program, Chapter 10
23 (commencing with Section 18900) of Part 6 shall comply with the
24 statewide fingerprint imaging system requirements applicable to
25 those programs.

26 (b) Any exemptions exercised pursuant to this section shall be
27 implemented in accordance with Section 11393.

28 (c) Income to the child, including the Kin-GAP payment, shall
29 not be considered income to the kinship guardian for purposes of
30 determining the kinship guardian's eligibility for any other aid
31 program, unless required by federal law as a condition of the receipt
32 of federal financial participation.

33 (d) Each county that formally had court-ordered jurisdiction
34 under Section 300 or Section 601 or 602 over a child receiving
35 benefits under the Kin-GAP Program shall be responsible for
36 paying the child's aid regardless of where the child actually resides.

37 (e) Notwithstanding any other provision of law, when a child
38 receiving benefits under the AFDC-FC foster care program
39 becomes eligible for benefits under the Kin-GAP Program during
40 any month, the child shall continue to receive benefits under the

1 AFDC-FC foster care program, as appropriate, to the end of that
2 calendar month, and Kin-GAP payments shall begin the first day
3 of the following month.

4 (f) All of the following shall apply to any child or nonminor in
5 receipt of Kin-GAP benefits:

6 (1) He or she is eligible to request and receive independent
7 living services pursuant to Section 10609.3.

8 (2) He or she may retain cash savings, not to exceed ten
9 thousand dollars (\$10,000), including interest, pursuant to Section
10 11155.5.

11 (3) He or she shall have earned income disregarded pursuant to
12 Section 11008.15.

13 11391. For purposes of this article, the following definitions
14 shall apply:

15 (a) “Kinship Guardianship Assistance Payments (Kin-GAP)”
16 means the aid provided on behalf of children eligible for federal
17 financial participation under Section 671(a)(28) of Title 42 of the
18 United States Code in kinship care under the terms of this article.

19 (b) “Kinship guardian” means a person who meets both of the
20 following criteria:

21 (1) He or she has been appointed the legal guardian of a
22 dependent child pursuant to Section 366.26 or Section 360.

23 (2) He or she is a relative of the child.

24 (c) “Relative” means an adult who is related to the child by
25 blood, adoption, or affinity within the fifth degree of kinship,
26 including stepparents, stepsiblings, and all relatives whose status
27 is preceded by the words “great,” “great-great,” or “grand” or the
28 spouse of any of those persons even if the marriage was terminated
29 by death or dissolution.

30 (d) “Sibling” means a child related to the identified eligible
31 child by blood, adoption or affinity through a common legal or
32 biological parent.

33 11392. On and after the date that the director executes a
34 declaration pursuant to Section 11217, for purposes of eligibility
35 under this article, children who are currently receiving Kin-GAP
36 pursuant to Article 4.5 (commencing with Section 11360) and who
37 were determined eligible under Subtitle IV-E (commencing with
38 Section 470 of the federal Social Security Act (42 U.S.C. Sec. 670
39 et seq.)) as dependent children of the juvenile court placed in foster
40 care with an approved relative and who remain under the court’s

1 jurisdiction pursuant to Section 366.4 shall be deemed to meet the
2 eligibility criteria as described in Section 673(d) of Title 42 of the
3 United States Code. On and after the date that the director executes
4 a declaration pursuant to Section 11217, the county child welfare
5 department, probation department, or Indian tribe, as appropriate,
6 at the time of each Subtitle IV-E eligible child's Kin-GAP annual
7 redetermination, shall meet with the relative guardian and child
8 and enter into the negotiated agreement as described in Section
9 11387.

10 11393. (a) Notwithstanding the Administrative Procedure Act
11 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
12 Division 3 of Title 2 of the Government Code) the department may
13 implement the applicable provisions of the federally funded
14 Kin-GAP Program through all-county letters or similar instructions
15 from the director.

16 (b) The department shall develop both the all-county letter
17 instructions and regulations in consultation with concerned
18 stakeholders, including, but not limited to, the County Welfare
19 Directors Association, the Chief Probation Officers of California,
20 representatives of California Indian tribes, the California Youth
21 Connection, former foster youth, child advocacy organizations,
22 labor organizations, foster caregiver organizations, and researchers.

23 (c) The director shall adopt regulations as otherwise necessary,
24 to implement the applicable provisions of the federally funded
25 Kin-GAP Program. Emergency regulations to implement the
26 applicable provisions of this act may be adopted by the director
27 in accordance with the Administrative Procedure Act. The initial
28 adoption of the emergency regulations and one readoption of the
29 initial regulations shall be deemed to be an emergency and
30 necessary for the immediate preservation of the public peace,
31 health, safety, or general welfare. Initial emergency regulations
32 and the first readoption of those emergency regulations shall be
33 exempt from review by the Office of Administrative Law. The
34 emergency regulations authorized by this section shall be submitted
35 to the Office of Administrative Law for filing with the Secretary
36 of State and shall remain in effect for no more than 180 days.

37 SEC. 38. Section 11400 of the Welfare and Institutions Code
38 is amended to read:

39 11400. For the purposes of this article, the following definitions
40 shall apply:

1 (a) “Aid to Families with Dependent Children-Foster Care
2 (AFDC-FC)” means the aid provided on behalf of needy children
3 in foster care under the terms of this division.

4 (b) “Case plan” means a written document that, at a minimum,
5 specifies the type of home in which the child shall be placed, the
6 safety of that home, and the appropriateness of that home to meet
7 the child’s needs. It shall also include the agency’s plan for
8 ensuring that the child receive proper care and protection in a safe
9 environment, and shall set forth the appropriate services to be
10 provided to the child, the child’s family, and the foster parents, in
11 order to meet the child’s needs while in foster care, and to reunify
12 the child with the child’s family. In addition, the plan shall specify
13 the services that will be provided or steps that will be taken to
14 facilitate an alternate permanent plan if reunification is not possible.

15 (c) “Certified family home” means a family residence certified
16 by a licensed foster family agency and issued a certificate of
17 approval by that agency as meeting licensing standards, and used
18 only by that foster family agency for placements.

19 (d) “Family home” means the family residency of a licensee in
20 which 24-hour care and supervision are provided for children.

21 (e) “Small family home” means any residential facility, in the
22 licensee’s family residence, which provides 24-hour care for six
23 or fewer foster children who have mental disorders or
24 developmental or physical disabilities and who require special care
25 and supervision as a result of their disabilities.

26 (f) “Foster care” means the 24-hour out-of-home care provided
27 to children whose own families are unable or unwilling to care for
28 them, and who are in need of temporary or long-term substitute
29 parenting.

30 (g) “Foster family agency” means any individual or organization
31 engaged in the recruiting, certifying, and training of, and providing
32 professional support to, foster parents, or in finding homes or other
33 places for placement of children for temporary or permanent care
34 who require that level of care as an alternative to a group home.
35 Private foster family agencies shall be organized and operated on
36 a nonprofit basis.

37 (h) “Group home” means a nondetention privately operated
38 residential home, organized and operated on a nonprofit basis only,
39 of any capacity, or a nondetention licensed residential care home
40 operated by the County of San Mateo with a capacity of up to 25

1 beds, that provides services in a group setting to children in need
2 of care and supervision, as required by paragraph (1) of subdivision
3 (a) of Section 1502 of the Health and Safety Code.

4 (i) "Periodic review" means review of a child's status by the
5 juvenile court or by an administrative review panel, that shall
6 include a consideration of the safety of the child, a determination
7 of the continuing need for placement in foster care, evaluation of
8 the goals for the placement and the progress toward meeting these
9 goals, and development of a target date for the child's return home
10 or establishment of alternative permanent placement.

11 (j) "Permanency planning hearing" means a hearing conducted
12 by the juvenile court in which the child's future status, including
13 whether the child shall be returned home or another permanent
14 plan shall be developed, is determined.

15 (k) "Placement and care" refers to the responsibility for the
16 welfare of a child vested in an agency or organization by virtue of
17 the agency or organization having (1) been delegated care, custody,
18 and control of a child by the juvenile court, (2) taken responsibility,
19 pursuant to a relinquishment or termination of parental rights on
20 a child, (3) taken the responsibility of supervising a child detained
21 by the juvenile court pursuant to Section 319 or 636, or (4) signed
22 a voluntary placement agreement for the child's placement; or to
23 the responsibility designated to an individual by virtue of his or
24 her being appointed the child's legal guardian.

25 (l) "Preplacement preventive services" means services that are
26 designed to help children remain with their families by preventing
27 or eliminating the need for removal.

28 (m) "Relative" means an adult who is related to the child by
29 blood, adoption, or affinity within the fifth degree of kinship,
30 including stepparents, stepsiblings, and all relatives whose status
31 is preceded by the words "great," "great-great," or "grand" or the
32 spouse of any of these persons even if the marriage was terminated
33 by death or dissolution.

34 (n) "Nonrelative extended family member" means an adult
35 caregiver who has an established familial or mentoring relationship
36 with the child, as described in Section 362.7.

37 (o) "Voluntary placement" means an out-of-home placement
38 of a child by (1) the county welfare department, probation
39 department, or Indian tribe that has entered into an agreement
40 pursuant to Section 10553.1, after the parents or guardians have

1 requested the assistance of the county welfare department and have
2 signed a voluntary placement agreement; or (2) the county welfare
3 department licensed public or private adoption agency, or the
4 department acting as an adoption agency, after the parents have
5 requested the assistance of either the county welfare department,
6 the licensed public or private adoption agency, or the department
7 acting as an adoption agency for the purpose of adoption planning,
8 and have signed a voluntary placement agreement.

9 (p) “Voluntary placement agreement” means a written agreement
10 between either the county welfare department, probation
11 department, or Indian tribe that has entered into an agreement
12 pursuant to Section 10553.1, licensed public or private adoption
13 agency, or the department acting as an adoption agency, and the
14 parents or guardians of a child that specifies, at a minimum, the
15 following:

16 (1) The legal status of the child.

17 (2) The rights and obligations of the parents or guardians, the
18 child, and the agency in which the child is placed.

19 (q) “Original placement date” means the most recent date on
20 which the court detained a child and ordered an agency to be
21 responsible for supervising the child or the date on which an agency
22 assumed responsibility for a child due to termination of parental
23 rights, relinquishment, or voluntary placement.

24 (r) “Transitional housing placement facility” means either of
25 the following:

26 (1) A community care facility licensed by the State Department
27 of Social Services pursuant to Section 1559.110 of the Health and
28 Safety Code to provide transitional housing opportunities to persons
29 at least 16 years of age, and not more than 18 years of age unless
30 they satisfy the requirements of Section 11403, who are in
31 out-of-home placement under the supervision of the county
32 department of social services or the county probation department,
33 and who are participating in an independent living program.

34 (2) A facility certified to provide transitional housing services
35 pursuant to subdivision (e) of Section 1559.110 of the Health and
36 Safety Code.

37 (s) “Transitional housing placement program” means a program
38 that provides supervised housing opportunities to eligible youth
39 and nonminor dependents pursuant to Article 4 (commencing with
40 Section 16522) of Chapter 5 of Part 4.

1 (t) “Whole family foster home” means a new or existing family
2 home, approved relative caregiver or nonrelative extended family
3 member’s home, the home of a nonrelated legal guardian whose
4 guardianship was established pursuant to Section 366.26 or 360,
5 certified family home that provides foster care for a minor or
6 nonminor dependent parent and his or her child, and is specifically
7 recruited and trained to assist the minor or nonminor dependent
8 parent in developing the skills necessary to provide a safe, stable,
9 and permanent home for his or her child. The child of the minor
10 or nonminor dependent parent need not be the subject of a petition
11 filed pursuant to Section 300 to qualify for placement in a whole
12 family foster home.

13 (u) “Mutual agreement” means, on and after January 1, 2012,
14 an agreement between a nonminor dependent and the agency
15 responsible for the foster care placement.

16 (v) “Nonminor dependent” means, on and after January 1, 2012,
17 a current or former dependent child or ward of the juvenile court
18 who satisfies all of the following criteria:

19 (1) He or she has attained 18 years of age but is less than 21
20 years of age.

21 (2) He or she is in foster care under the responsibility of the
22 county welfare department, county probation department, or Indian
23 tribe that entered into an agreement pursuant to Section 10553.1.

24 (3) He or she is participating in a transitional independent living
25 case plan pursuant to Section 475(8) of the federal Social Security
26 Act (42 U.S.C. Sec. 675(8)), as contained in the Fostering
27 Connections to Success and Increasing Adoptions Act of 2008
28 (Public Law 110-351).

29 (w) “Supervised independent living setting” means, on and after
30 January 1, 2012, a supervised setting, as specified in a nonminor
31 dependent’s transitional independent living case plan, in which
32 the youth is living independently, pursuant to Section 472(c)(2)
33 of the Social Security Act (42 U.S.C. Sec. 672(c)(2)).

34 (x) “THP-Plus Foster Care” means, on and after January 1,
35 2012, a placement that offers supervised housing opportunities
36 and supportive services to eligible nonminor dependents at least
37 18 years of age, on and after January 1, 2013, 19 years of age, and
38 on and after January 1, 2014, 20 years of age, and not more than
39 21 years of age, who are in out-of-home placement under the
40 supervision of the county department of social services or the

1 county probation department or Indian tribe that entered into an
2 agreement pursuant to Section 10553.1, and who are described in
3 paragraph (3) of subdivision (a) of Section 11403.2.

4 SEC. 39. Section 11401 of the Welfare and Institutions Code,
5 as amended by Section 2 of Chapter 4 of the Eighth Extraordinary
6 Session of the Statutes of 2010, is amended to read:

7 11401. Aid in the form of AFDC-FC shall be provided under
8 this chapter on behalf of any child under 18 years of age, and, on
9 and after January 1, 2012, to any nonminor dependent, except as
10 provided in Section 11403, who meets the conditions of subdivision
11 (a), (b), (c), (d), (e), (f), (g), or (h):

12 (a) The child has been relinquished, for purposes of adoption,
13 to a licensed adoption agency, or the department, or the parental
14 rights of either or both of his or her parents have been terminated
15 after an action under the Family Code has been brought by a
16 licensed adoption agency or the department, provided that the
17 licensed adoption agency or the department, if responsible for
18 placement and care, provides to those children all services as
19 required by the department to children in foster care.

20 (b) The child has been removed from the physical custody of
21 his or her parent, relative, or guardian as a result of a voluntary
22 placement agreement or a judicial determination that continuance
23 in the home would be contrary to the child's welfare and that, if
24 the child was placed in foster care, reasonable efforts were made,
25 consistent with Chapter 5 (commencing with Section 16500) of
26 Part 4, to prevent or eliminate the need for removal of the child
27 from his or her home and to make it possible for the child to return
28 to his or her home, and any of the following applies:

29 (1) The child has been adjudged a dependent child of the court
30 on the grounds that he or she is a person described by Section 300.

31 (2) The child has been adjudged a ward of the court on the
32 grounds that he or she is a person described by Sections 601 and
33 602.

34 (3) The child has been detained under a court order, pursuant
35 to Section 319 or 636, that remains in effect.

36 (4) The child's dependency jurisdiction has resumed pursuant
37 to Section 387, or subdivision (a) or (e) of Section 388.

38 (c) The child has been voluntarily placed by his or her parent
39 or guardian pursuant to Section 11401.1.

40 (d) The child is living in the home of a nonrelated legal guardian.

1 (e) On and after January 1, 2012, the child is a nonminor
2 dependent who is placed pursuant to Section 11403 under the
3 responsibility of the county welfare department, an Indian tribe
4 that entered into an agreement pursuant to Section 10553.1, or the
5 county probation department.

6 (f) The child has been placed in foster care under the federal
7 Indian Child Welfare Act. Sections 11402, 11404, and 11405 shall
8 not be construed as limiting payments to Indian children, as defined
9 in the federal Indian Child Welfare Act, placed in accordance with
10 that act.

11 (g) To be eligible for federal financial participation, the
12 conditions described in paragraph (1), (2), (3), or (4) shall be
13 satisfied:

14 (1) (A) The child meets the conditions of subdivision (b).

15 (B) The child has been deprived of parental support or care for
16 any of the reasons set forth in Section 11250.

17 (C) The child has been removed from the home of a relative as
18 defined in Section 233.90(c)(1) of Title 45 of the Code of Federal
19 Regulations, as amended.

20 (D) The requirements of Sections 671 and 672 of Title 42 of
21 the United States Code, as amended, have been met.

22 (2) (A) The child meets the requirements of subdivision (h).

23 (B) The requirements of Sections 671 and 672 of Title 42 of
24 the United States Code, as amended, have been met.

25 (C) This paragraph shall be implemented only if federal financial
26 participation is available for the children described in this
27 paragraph.

28 (3) (A) The child has been removed from the custody of his or
29 her parent, relative, or guardian as a result of a voluntary placement
30 agreement or a judicial determination that continuance in the home
31 would be contrary to the child's welfare and that, if the child was
32 placed in foster care, reasonable efforts were made, consistent with
33 Chapter 5 (commencing with Section 16500) of Part 4, to prevent
34 or eliminate the need for removal of the child from his or her home
35 and to make it possible for the child to return to his or her home,
36 and any of the following applies:

37 (i) The child has been adjudged a dependent child of the court
38 on the grounds that he or she is a person described by Section 300.

1 (ii) The child has been adjudged a ward of the court on the
2 grounds that he or she is a person described by Sections 601 and
3 602.

4 (iii) The child has been detained under a court order, pursuant
5 to Section 319 or 636, that remains in effect.

6 (iv) The child's dependency jurisdiction has resumed pursuant
7 to Section 387.

8 (B) The child has been placed in an eligible foster care
9 placement, as set forth in Section 11402.

10 (C) The requirements of Sections 671 and 672 of Title 42 of
11 the United States Code have been satisfied.

12 (D) This paragraph shall be implemented only if federal financial
13 participation is available for the children described in this
14 paragraph.

15 (4) With respect to a nonminor dependent, in addition to meeting
16 the conditions specified in paragraph (1), the requirements of
17 Section 675(8)(B) of Title 42 of the United States Code have been
18 satisfied.

19 (h) The child meets all of the following conditions:

20 (1) The child has been adjudged to be a dependent child or ward
21 of the court on the grounds that he or she is a person described in
22 Section 300.

23 (2) The child's parent also has been adjudged to be a dependent
24 child or nonminor dependent of the court on the grounds that he
25 or she is a person described by Section 300 or Section 602 and is
26 receiving benefits under this chapter.

27 (3) The child is placed in the same licensed or approved foster
28 care facility in which his or her parent is placed and the child's
29 parent is receiving reunification services with respect to that child.

30 SEC. 40. Section 11401.05 is added to the Welfare and
31 Institutions Code, to read:

32 11401.05. The department shall amend the foster care state
33 plan required under Subtitle IV-E (commencing with Section 470
34 of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.)), to
35 extend benefits under this article, commencing January 1, 2012,
36 to an individual who is in foster care under the responsibility of
37 the state, or with respect to whom an adoption assistance agreement
38 or a kinship guardianship assistance agreement is in effect, in
39 accordance with the federal Fostering Connections to Success and
40 Increasing Adoptions Act of 2008 (Public Law 110-351).

1 SEC. 41. Section 11401.1 of the Welfare and Institutions Code
2 is amended to read:

3 11401.1. (a) Otherwise eligible children placed voluntarily
4 prior to January 1, 1981, may remain eligible for AFDC-FC
5 payments.

6 (b) Beginning on January 1, 1982, AFDC-FC payments for
7 children placed voluntarily on or after January 1, 1981, shall be
8 limited to a period of up to 180 days under conditions specified
9 by departmental regulations, and may be extended an additional
10 six months pursuant to Section 16507.3 and departmental
11 regulations.

12 This section shall become operative on January 1, 1984.

13 SEC. 42. Section 11401.4 of the Welfare and Institutions Code
14 is amended to read:

15 11401.4. A child living with his or her parent who is a minor
16 or, on and after January 1, 2012, a nonminor dependent and a
17 recipient of AFDC-FC benefits shall be deemed a child with respect
18 to whom AFDC-FC payments are made.

19 SEC. 43. Section 11401.5 of the Welfare and Institutions Code
20 is amended to read:

21 11401.5. (a) The county shall redetermine AFDC-FC eligibility
22 annually and no less than required under federal law. This shall
23 include an examination of any circumstances of a foster child that
24 are subject to change and could effect the child's potential
25 eligibility, including, but not limited to, deprivation, financial need,
26 authority for placement, eligible facility, and age.

27 (b) At the time of the redetermination, the parent or legal
28 guardian from whom the child was removed shall complete a
29 statement of facts supporting continued eligibility. If the parent or
30 legal guardian is unavailable or uncooperative, the county shall
31 complete the statement of facts on the child's behalf.

32 (c) On and after January 1, 2012, in the case of a nonminor
33 dependent who is placed pursuant to a mutual agreement, the
34 nonminor dependent shall complete a statement of facts supporting
35 continued eligibility.

36 SEC. 44. Section 11402 of the Welfare and Institutions Code,
37 as amended by Section 7 of Chapter 288 of the Statutes of 2007,
38 is amended to read:

39 11402. In order to be eligible for AFDC-FC, a child shall be
40 placed in one of the following:

1 (a) The approved home of a relative, provided the child is
2 otherwise eligible for federal financial participation in the
3 AFDC-FC payment.

4 (b) (1) The licensed family home of a nonrelative.

5 (2) The approved home of a nonrelative extended family
6 member as described in Section 362.7.

7 (c) A licensed group home, as defined in subdivision (h) of
8 Section 11400, provided that the placement worker has documented
9 that the placement is necessary to meet the treatment needs of the
10 child and that the facility offers those treatment services.

11 (d) The home of a nonrelated legal guardian or the home of a
12 former nonrelated legal guardian when the guardianship of a child
13 who is otherwise eligible for AFDC-FC has been dismissed due
14 to the child's attaining 18 years of age.

15 (e) An exclusive-use home.

16 (f) A licensed transitional housing placement facility, as
17 described in Section 1559.110 of the Health and Safety Code, and
18 as defined in *subdivision (r) of Section 11400, or a transitional*
19 *housing placement program, as defined in subdivision (s) of Section*
20 *11400.*

21 (g) An out-of-state group home, provided that the placement
22 worker, in addition to complying with all other statutory
23 requirements for placing a minor in an out-of-state group home,
24 documents that the requirements of Section 7911.1 of the Family
25 Code have been met.

26 (h) A licensed crisis nursery, as described in Section 1516 of
27 the Health and Safety Code, and as defined in subdivision (a) of
28 Section 11400.1.

29 (i) A supervised independent living setting for nonminor
30 dependents, as defined in Section 11400.

31 (j) *An approved THP-Plus Foster Care placement for nonminor*
32 *dependents, as defined in subdivision (x) of Section 11400.*

33 ~~(j)~~

34 (k) This section shall remain in effect only until July 1, 2011,
35 and as of that date is repealed, unless a later enacted statute, that
36 is enacted before July 1, 2011, deletes or extends that date.

37 SEC. 45. Section 11402 of the Welfare and Institutions Code,
38 as amended by Section 8 of Chapter 288 of the Statutes of 2007,
39 is amended to read:

1 11402. In order to be eligible for AFDC-FC, a child shall be
2 placed in one of the following:

3 (a) The approved home of a relative, provided the child is
4 otherwise eligible for federal financial participation in the
5 AFDC-FC payment.

6 (b) (1) The licensed family home of a nonrelative.

7 (2) The approved home of a nonrelative extended family
8 member as described in Section 362.7.

9 (c) A licensed group home, as defined in subdivision (h) of
10 Section 11400, provided that the placement worker has documented
11 that the placement is necessary to meet the treatment needs of the
12 child and that the facility offers those treatment services.

13 (d) The home of a nonrelated legal guardian or the home of a
14 former nonrelated legal guardian when the guardianship of a child
15 who is otherwise eligible for AFDC-FC has been dismissed due
16 to the child's attaining 18 years of age.

17 (e) An exclusive-use home.

18 (f) A licensed transitional housing placement facility as
19 described in Section 1559.110 of the Health and Safety Code and
20 as defined in *subdivision (r) of Section 11400, or a transitional*
21 *housing placement program, as defined in subdivision (s) of Section*
22 *11400.*

23 (g) An out-of-state group home, provided that the placement
24 worker, in addition to complying with all other statutory
25 requirements for placing a minor in an out-of-state group home,
26 documents that the requirements of Section 7911.1 of the Family
27 Code have been met.

28 (h) A supervised independent living setting for nonminor
29 dependents, as defined in Section 11400.

30 (i) *An approved THP-Plus Foster Care placement for nonminor*
31 *dependents, as defined in subdivision (x) of Section 11400.*

32 (i)

33 (j) This section shall become operative on July 1, 2011.

34 SEC. 46. Section 11403 of the Welfare and Institutions Code
35 is amended to read:

36 11403. (a) A child who is in foster care and receiving aid
37 pursuant to this chapter and who is attending high school or the
38 equivalent level of vocational or technical training on a full-time
39 basis, or who is in the process of pursuing a high school
40 equivalency certificate, prior to his or her 18th birthday, may

1 continue to receive aid following his or her 18th birthday so long
2 as the child continues to reside in foster care placement, remains
3 otherwise eligible for AFDC-FC payments, and continues to attend
4 high school or the equivalent level of vocational or technical
5 training on a full-time basis, or continues to pursue a high school
6 equivalency certificate, and the child may reasonably be expected
7 to complete the educational or training program or to receive a
8 high school equivalency certificate, before his or her 19th birthday.
9 Aid shall be provided to an individual pursuant to this section
10 provided both the individual and the agency responsible for the
11 foster care placement have signed a mutual agreement, if the
12 individual is capable of making an informed agreement, which
13 documents the continued need for out-of-home placement.

14 (b) This section shall remain in effect only until January 1, 2012,
15 and as of that date is repealed, unless a later enacted statute, that
16 is enacted before January 1, 2012, deletes or extends that date.

17 SEC. 47. Section 11403 is added to the Welfare and Institutions
18 Code, to read:

19 11403. (a) It is the intent of the Legislature to exercise the
20 option afforded states under Section 475(8) (42 U.S.C. Sec.
21 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the
22 Social Security Act, as contained in the Fostering Connections to
23 Success and Increasing Adoptions Act of 2008 (Public Law
24 110-351), to receive federal financial participation for current or
25 former dependent children or wards of the juvenile court who meet
26 the conditions of subdivision (b). Effective January 1, 2012, these
27 nonminor dependents shall be eligible to receive support up to 19
28 years of age, effective January 1, 2013, up to 20 years of age, and
29 effective January 1, 2014, up to 21 years of age, consistent with
30 their transitional independent living case plan.

31 (b) A nonminor dependent receiving aid pursuant to this chapter,
32 who satisfies the age criteria set forth in subdivision (a), shall
33 continue to receive aid so long as the nonminor is otherwise eligible
34 for AFDC-FC payments pursuant to Section 11401 or CalWORKs
35 payments pursuant to Section 11253 or aid pursuant to Kin-GAP
36 under Article 4.5 (commencing with Section 11360) or Article 4.7
37 (commencing with Section 11385) or adoption assistance payments
38 as specified in Chapter 2.1 (commencing with Section 16115) of
39 Part 4. Effective January 1, 2012, a nonminor former dependent
40 child of the juvenile court who is receiving AFDC-FC benefits

1 pursuant to Section 11405 shall be eligible to continue to receive
2 aid up to 19 years of age, effective January 1, 2013, up to 20 years
3 of age, and effective January 1, 2014, up to 21 years of age, as
4 long as the nonminor is otherwise eligible for AFDC-FC benefits
5 under this subdivision. This subdivision shall apply when one or
6 more of the following conditions exist:

7 (1) The nonminor is completing secondary education or a
8 program leading to an equivalent credential.

9 (2) The nonminor is enrolled in an institution which provides
10 postsecondary or vocational education.

11 (3) The nonminor is participating in a program or activity
12 designed to promote, or remove barriers to employment.

13 (4) The nonminor is employed for at least 80 hours per month.

14 (5) The nonminor is incapable of doing any of the activities
15 described in subparagraphs (1) to (4), inclusive, due to a medical
16 condition, and that incapability is supported by regularly updated
17 information in the case plan of the nonminor.

18 (c) The county child welfare or probation department or Indian
19 tribe that has entered into an agreement pursuant to Section
20 10553.1, shall actively assist a nonminor dependent who is in foster
21 care on his or her 18th birthday or a nonminor former dependent
22 receiving aid pursuant to Section 11405, to meet one or more of
23 the conditions described in paragraphs (1) to (5), inclusive, of
24 subdivision (b) and shall certify the nonminor's applicable
25 condition to the eligibility worker. The nonminor dependent or a
26 nonminor former dependent receiving aid pursuant to Section
27 11405, shall be presumed to continuously meet one or more of the
28 conditions described in paragraphs (1) to (5), inclusive, of
29 subdivision (b) unless and until the social worker or probation
30 officer documents to the court, or to the eligibility worker for the
31 nonminor former dependent receiving aid pursuant to Section
32 11405, that the nonminor dependent does not meet at least one of
33 the conditions. In no case shall aid under this section be terminated
34 unless the court terminates dependency jurisdiction over the
35 nonminor pursuant to Section 391, or delinquency jurisdiction
36 pursuant to Section 785. The nonminor dependent or a nonminor
37 former dependent receiving aid pursuant to Section 11405, shall
38 be afforded all due process requirements in accordance with state
39 and federal law prior to an involuntary termination of aid. Any
40 notices of action regarding eligibility shall be sent to the nonminor

1 dependent or former dependent and his or her counsel, in addition
2 to any other payee.

3 (d) A nonminor dependent may receive all or a portion of the
4 payment directly provided that both the youth and the agency
5 responsible for the foster care placement have signed a mutual
6 agreement, if the youth is capable of making an informed
7 agreement, which documents the continued need for out-of-home
8 placement.

9 (e) Eligibility for aid under this section shall not terminate until
10 the nonminor attains 21 years of age but aid may be suspended
11 and resumed at request of the nonminor pursuant to subdivision
12 (e) of Section 388 or after a court terminates dependency
13 jurisdiction pursuant to Section 391, or delinquency jurisdiction
14 pursuant to Section 785. The county welfare department, tribe, or
15 county probation department shall provide a nonminor dependent
16 who wishes to continue receiving aid with the assistance necessary
17 to meet and maintain eligibility.

18 (f) (1) The county having jurisdiction of the nonminor
19 dependent shall remain the county of payment under this section
20 regardless of the youth's physical residence. Nonminor dependents
21 receiving aid pursuant to Section 11405 shall be paid by their
22 county of residence. Counties may develop courtesy supervision
23 agreements to provide case management and independent living
24 services by the county of residence pursuant to the youth's
25 transitional independent living case plan. Placements made out of
26 state are subject to the requirements of the Interstate Compact on
27 Juveniles pursuant to Chapter 4 (commencing with Section 1300)
28 of Part 1 of Division 2.

29 (2) The county welfare department, tribe, or county probation
30 department shall notify all foster youth who attain 16 years of age
31 and are under the jurisdiction of that county or tribe, including
32 those receiving Kin-GAP, and AAP, of the existence of the aid
33 prescribed by this section.

34 (3) Aid under this section shall be paid on the first of the month
35 for that month. Notwithstanding any other provision of law, when
36 a child attains 18 years of age those payments shall continue to
37 the end of that calendar month and the AFDC-FC, Kin-GAP, or
38 AAP payments under this section shall begin the first day of the
39 following month.

1 (4) The department shall seek any waiver to amend its Title
2 IV-E State Plan with the Secretary of the United States Department
3 of Health and Human Services necessary to implement this section.

4 (g) It is the intent of the Legislature that no county currently
5 participating in the Child Welfare Demonstration Capped
6 Allocation Project be adversely impacted by the department's
7 exercise of its option to extend foster care benefits pursuant to
8 Section 673(a)(4) and Section 675(8) of Title 42 of the United
9 States Code in the federal Social Security Act, as contained in the
10 Fostering Connections to Success and Increasing Adoptions Act
11 of 2008 (Public Law 110-351). Therefore, the department shall
12 negotiate with the United States Department of Health and Human
13 Services on behalf of those counties that are currently participating
14 in the demonstration project to ensure that those counties receive
15 reimbursement for these new programs outside of the provisions
16 of those counties' waiver under Subtitle IV-E (commencing with
17 Section 470) of the federal Social Security Act (42 U.S.C. Sec.
18 670 et seq.).

19 (h) The department, on or before July 1, 2011, shall develop
20 regulations to implement this section in consultation with
21 concerned stakeholders, including, but not limited to,
22 representatives of the Legislature, the County Welfare Directors
23 Association, the Chief Probation Officers of California, the Judicial
24 Council, representatives of Indian tribes, the California Youth
25 Connection, former foster youth, child advocacy organizations,
26 labor organizations, juvenile justice advocacy organizations, foster
27 caregiver organizations, and researchers. In the development of
28 these regulations, the department shall consider its Manual of
29 Policy and Procedures, Division 30, Chapter 30-912, 913, 916,
30 and 917, as guidelines for developing regulations that are
31 appropriate for young adults who can exercise incremental
32 responsibility concurrently with their growth and development.
33 The department, in its consultation, shall take into consideration
34 the impact to the Automated Child Welfare Services Case
35 Management Services (CWS-CMS) and required modifications
36 needed to accommodate eligibility determination under this section,
37 benefit issuance, case management across counties, and recognition
38 of the legal status of nonminor dependents as adults, as well as
39 changes to data tracking and reporting requirements as required
40 by the Child Welfare System Improvement and Accountability

1 Act as specified in Section 10601.2, and federal outcome measures
2 as required by the John H. Chafee Foster Care Independence
3 Program (42 U.S.C. Sec. 677(f)). In addition, the department, in
4 its consultation, shall define the supervised independent living
5 setting which shall include, but not be limited to, apartment living,
6 room and board arrangements, college or university dormitories,
7 and shared roommate settings, and define how those settings meet
8 health and safety standards suitable for nonminors.

9 (i) Notwithstanding the Administrative Procedure Act, Chapter
10 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
11 Title 2 of the Government Code, the department shall prepare for
12 implementation of the applicable provisions of this section by
13 publishing, after consultation with the stakeholders listed in
14 subdivision (f), all-county letters or similar instructions from the
15 director by July 1, 2012, to apply from January 1, 2012, to June
16 30, 2013, inclusive. Emergency regulations to implement the
17 applicable provisions of this act may be adopted by the director
18 in accordance with the Administrative Procedure Act. The initial
19 adoption of the emergency regulations and one readoption of the
20 emergency regulations shall be deemed to be an emergency and
21 necessary for the immediate preservation of the public peace,
22 health, safety, or general welfare. Initial emergency regulations
23 and the first readoption of those emergency regulations shall be
24 exempt from review by the Office of Administrative Law. The
25 emergency regulations authorized by this section shall be submitted
26 to the Office of Administrative Law for filing with the Secretary
27 of State and shall remain in effect for no more than 180 days.

28 (j) This section shall become operative on January 1, 2012.

29 SEC. 48. Section 11403.2 of the Welfare and Institutions Code
30 is amended to read:

31 11403.2. (a) The following persons shall be eligible for
32 transitional housing placement program services provided pursuant
33 to Article 4 (commencing with Section 16522) of Chapter 5 of
34 Part 4:

35 (1) Any minor at least 16 years of age and not more than 18
36 years of age, and, on or after January 1, 2012, any nonminor
37 dependent who is less than 21 years of age, who is eligible for
38 AFDC-FC benefits as provided in Section 11403, and who also
39 meets the requirements in Section 16522.2.

1 (2) Any person less than 24 years of age who has emancipated
2 from a county that has elected to participate in a transitional
3 housing placement program for youths who are at least 18 years
4 of age and under 24 years of age, as described in subdivision (r)
5 of Section 11400, provided he or she has not received services
6 under this paragraph for more than a total of 24 months, whether
7 or not consecutive. If the person participating in a transitional
8 housing placement program is not receiving aid under Section
9 11403.1, he or she, as a condition of participation, shall enter into,
10 and execute the provisions of, a transitional independent living
11 plan that shall be mutually agreed upon, and annually reviewed,
12 by the emancipated foster youth and the county welfare or
13 probation department or independent living program coordinator.
14 The youth participating under this paragraph shall inform the
15 county of any changes to conditions specified in the agreed-upon
16 plan that affect eligibility, including changes in address, living
17 circumstances, and the educational or training program.

18 (3) It is the intent of the Legislature to create a new placement
19 option, known as THP-Plus-Foster Care. On and after January 1,
20 2012, THP-Plus Foster-Care shall offer the same housing models
21 and supportive services as are available through the standard
22 THP-Plus program available to emancipated foster youths pursuant
23 to paragraph (2).

24 (4) On and after January 1, 2012, any nonminor dependent at
25 least 18 years of age, and on January 1, 2013, 19 years of age, and
26 on January 1, 2014, 20 years of age, and not more than 21 years
27 of age, as described in subdivision (v) of Section 11400, pursuant
28 to subdivision (x) of Section 11400.

29 (b) Payment on behalf of an eligible person receiving transitional
30 housing services shall be made to the transitional housing
31 placement program pursuant to the conditions and limitations set
32 forth in Section 11403.3.

33 (c) On and after January 1, 2012, with respect to nonminor
34 dependents under 21 years of age, the approval standards for these
35 legal adults placed in the THP-Plus-Foster Care shall be developed
36 in accordance with Section 1502.7 of the Health and Safety Code.
37 When developing regulations for the THP-Plus programs, the
38 department shall consider the development of an application fee
39 process for the programs, similar to the fee schedule as described
40 in Section 1523.1 of the Health and Safety Code. An approved

1 THP-Plus program shall certify facilities or sites to provide
2 transitional housing services to nonminor dependents pursuant to
3 subdivision (e) of Section 1559.110 of the Health and Safety Code.

4 SEC. 49. Section 11405 of the Welfare and Institutions Code
5 is amended to read:

6 11405. (a) AFDC-FC benefits shall be paid to an otherwise
7 eligible child living with a nonrelated legal guardian, provided
8 that the legal guardian cooperates with the county welfare
9 department in all of the following:

10 (1) Developing a written assessment of the child's needs.

11 (2) Updating the assessment no less frequently than once every
12 six months.

13 (3) Carrying out the case plan developed by the county.

14 (b) When AFDC-FC is applied for on behalf of a child living
15 with a nonrelated legal guardian the county welfare department
16 shall do all of the following:

17 (1) Develop a written assessment of the child's needs.

18 (2) Update those assessments no less frequently than once every
19 six months.

20 (3) Develop a case plan that specifies how the problems
21 identified in the assessment are to be addressed.

22 (4) Make visits to the child as often as appropriate, but in no
23 event less often than once every six months.

24 (c) Where the child is a parent and has a child living with him
25 or her in the same eligible facility, the assessment required by
26 paragraph (1) of subdivision (a) shall include the needs of his or
27 her child.

28 (d) Nonrelated legal guardians of eligible children who are in
29 receipt of AFDC-FC payments described in this section shall be
30 exempt from the requirement to register with the Statewide
31 Registry of Private Professional Guardians pursuant to Sections
32 2850 and 2851 of the Probate Code.

33 (e) On and after January 1, 2012, a nonminor youth whose
34 nonrelated guardianship was ordered in juvenile court pursuant to
35 Section 360 or 366.26, and whose dependency was dismissed,
36 shall remain eligible for AFDC-FC benefits until the youth attains
37 19 years of age, effective January 1, 2013, until the youth attains
38 20 years of age, and effective January 1, 2014, until the youth
39 attains 21 years of age, provided that the youth enters into a mutual
40 agreement with the agency responsible for his or her guardianship,

and the youth is meeting the conditions of eligibility, as described in Section 11403.

SEC. 50. Section 11450 of the Welfare and Institutions Code is amended to read:

11450. (a) (1) Aid shall be paid for each needy family, which shall include all eligible brothers and sisters of each eligible applicant or recipient child and the parents of the children, but shall not include unborn children, or recipients of aid under Chapter 3 (commencing with Section 12000), qualified for aid under this chapter. In determining the amount of aid paid, and notwithstanding the minimum basic standards of adequate care specified in Section 11452, the family's income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (e) or Section 11453.1, averaged for the prospective quarter pursuant to Sections 11265.2 and 11265.3, and then calculated pursuant to Section 11451.5, shall be deducted from the sum specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2). In no case shall the amount of aid paid for each month exceed the sum specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2), plus any special needs, as specified in subdivisions (c), (e), and (f):

Number of eligible needy persons in the same home	Maximum aid
1.....	\$ 326
2.....	535
3.....	663
4.....	788
5.....	899
6.....	1,010
7.....	1,109
8.....	1,209
9.....	1,306
10 or more.....	1,403

If, when, and during those times that the United States government increases or decreases its contributions in assistance

1 of needy children in this state above or below the amount paid on
2 July 1, 1972, the amounts specified in the above table shall be
3 increased or decreased by an amount equal to that increase or
4 decrease by the United States government, provided that no
5 increase or decrease shall be subject to subsequent adjustment
6 pursuant to Section 11453.

7 (2) The sums specified in paragraph (1) shall not be adjusted
8 for cost of living for the 1990–91, 1991–92, 1992–93, 1993–94,
9 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years, and through
10 October 31, 1998, nor shall that amount be included in the base
11 for calculating any cost-of-living increases for any fiscal year
12 thereafter. Elimination of the cost-of-living adjustment pursuant
13 to this paragraph shall satisfy the requirements of Section 11453.05,
14 and no further reduction shall be made pursuant to that section.

15 (b) When the family does not include a needy child qualified
16 for aid under this chapter, aid shall be paid to a pregnant mother
17 for the month in which the birth is anticipated and for the
18 three-month period immediately prior to the month in which the
19 birth is anticipated in the amount that would otherwise be paid to
20 one person, as specified in subdivision (a), if the mother, and child,
21 if born, would have qualified for aid under this chapter. Verification
22 of pregnancy shall be required as a condition of eligibility for aid
23 under this subdivision. Aid shall also be paid to a pregnant woman
24 with no other children in the amount which would otherwise be
25 paid to one person under subdivision (a) at any time after
26 verification of pregnancy if the pregnant woman is also eligible
27 for the Cal-Learn Program described in Article 3.5 (commencing
28 with Section 11331) and if the mother, and child, if born, would
29 have qualified for aid under this chapter.

30 (c) The amount of forty-seven dollars (\$47) per month shall be
31 paid to pregnant mothers qualified for aid under subdivision (a)
32 or (b) to meet special needs resulting from pregnancy if the mother,
33 and child, if born, would have qualified for aid under this chapter.
34 County welfare departments shall refer all recipients of aid under
35 this subdivision to a local provider of the Women, Infants and
36 Children program. If that payment to pregnant mothers qualified
37 for aid under subdivision (a) is considered income under federal
38 law in the first five months of pregnancy, payments under this
39 subdivision shall not apply to persons eligible under subdivision
40 (a), except for the month in which birth is anticipated and for the

1 three-month period immediately prior to the month in which
2 delivery is anticipated, if the mother, and the child, if born, would
3 have qualified for aid under this chapter.

4 (d) For children receiving AFDC-FC under this chapter, there
5 shall be paid, exclusive of any amount considered exempt as
6 income, an amount of aid each month which, when added to the
7 child's income, is equal to the rate specified in Section 11460,
8 11461, 11462, 11462.1, or 11463. In addition, the child shall be
9 eligible for special needs, as specified in departmental regulations.

10 (e) In addition to the amounts payable under subdivision (a)
11 and Section 11453.1, a family shall be entitled to receive an
12 allowance for recurring special needs not common to a majority
13 of recipients. These recurring special needs shall include, but not
14 be limited to, special diets upon the recommendation of a physician
15 for circumstances other than pregnancy, and unusual costs of
16 transportation, laundry, housekeeping services, telephone, and
17 utilities. The recurring special needs allowance for each family
18 per month shall not exceed that amount resulting from multiplying
19 the sum of ten dollars (\$10) by the number of recipients in the
20 family who are eligible for assistance.

21 (f) After a family has used all available liquid resources, both
22 exempt and nonexempt, in excess of one hundred dollars (\$100),
23 with the exception of funds deposited in a restricted account
24 described in subdivision (a) of Section 11155.2, the family shall
25 also be entitled to receive an allowance for nonrecurring special
26 needs.

27 (1) An allowance for nonrecurring special needs shall be granted
28 for replacement of clothing and household equipment and for
29 emergency housing needs other than those needs addressed by
30 paragraph (2). These needs shall be caused by sudden and unusual
31 circumstances beyond the control of the needy family. The
32 department shall establish the allowance for each of the
33 nonrecurring special need items. The sum of all nonrecurring
34 special needs provided by this subdivision shall not exceed six
35 hundred dollars (\$600) per event.

36 (2) Homeless assistance is available to a homeless family
37 seeking shelter when the family is eligible for aid under this
38 chapter. Homeless assistance for temporary shelter is also available
39 to homeless families which are apparently eligible for aid under
40 this chapter. Apparent eligibility exists when evidence presented

1 by the applicant, or which is otherwise available to the county
2 welfare department, and the information provided on the
3 application documents indicate that there would be eligibility for
4 aid under this chapter if the evidence and information were verified.
5 However, an alien applicant who does not provide verification of
6 his or her eligible alien status, or a woman with no eligible children
7 who does not provide medical verification of pregnancy, is not
8 apparently eligible for purposes of this section.

9 A family is considered homeless, for the purpose of this section,
10 when the family lacks a fixed and regular nighttime residence; or
11 the family has a primary nighttime residence that is a supervised
12 publicly or privately operated shelter designed to provide temporary
13 living accommodations; or the family is residing in a public or
14 private place not designed for, or ordinarily used as, a regular
15 sleeping accommodation for human beings. A family is also
16 considered homeless for the purpose of this section if the family
17 has received a notice to pay rent or quit. The family shall
18 demonstrate that the eviction is the result of a verified financial
19 hardship as a result of extraordinary circumstances beyond their
20 control, and not other lease or rental violations, and that the family
21 is experiencing a financial crisis that could result in homelessness
22 if preventative assistance is not provided.

23 (A) (i) A nonrecurring special need of sixty-five dollars (\$65)
24 a day shall be available to families of up to four members for the
25 costs of temporary shelter, subject to the requirements of this
26 paragraph. The fifth and additional members of the family shall
27 each receive fifteen dollars (\$15) per day, up to a daily maximum
28 of one hundred twenty-five dollars (\$125). County welfare
29 departments may increase the daily amount available for temporary
30 shelter as necessary to secure the additional bedspace needed by
31 the family.

32 (ii) This special need shall be granted or denied immediately
33 upon the family's application for homeless assistance, and benefits
34 shall be available for up to three working days. The county welfare
35 department shall verify the family's homelessness within the first
36 three working days and if the family meets the criteria of
37 questionable homelessness established by the department, the
38 county welfare department shall refer the family to its early fraud
39 prevention and detection unit, if the county has such a unit, for
40 assistance in the verification of homelessness within this period.

1 (iii) After homelessness has been verified, the three-day limit
2 shall be extended for a period of time which, when added to the
3 initial benefits provided, does not exceed a total of 16 calendar
4 days. This extension of benefits shall be done in increments of one
5 week and shall be based upon searching for permanent housing
6 which shall be documented on a housing search form; good cause;
7 or other circumstances defined by the department. Documentation
8 of a housing search shall be required for the initial extension of
9 benefits beyond the three-day limit and on a weekly basis thereafter
10 as long as the family is receiving temporary shelter benefits. Good
11 cause shall include, but is not limited to, situations in which the
12 county welfare department has determined that the family, to the
13 extent it is capable, has made a good faith but unsuccessful effort
14 to secure permanent housing while receiving temporary shelter
15 benefits.

16 (B) A nonrecurring special need for permanent housing
17 assistance is available to pay for last month's rent and security
18 deposits when these payments are reasonable conditions of securing
19 a residence, or to pay for up to two months of rent arrearages, when
20 these payments are a reasonable condition of preventing eviction.

21 The last month's rent or monthly arrearage portion of the
22 payment (i) shall not exceed 80 percent of the family's total
23 monthly household income without the value of food stamps or
24 special needs for a family of that size and (ii) shall only be made
25 to families that have found permanent housing costing no more
26 than 80 percent of the family's total monthly household income
27 without the value of food stamps or special needs for a family of
28 that size.

29 However, if the county welfare department determines that a
30 family intends to reside with individuals who will be sharing
31 housing costs, the county welfare department shall, in appropriate
32 circumstances, set aside the condition specified in clause (ii) of
33 the preceding paragraph.

34 (C) The nonrecurring special need for permanent housing
35 assistance is also available to cover the standard costs of deposits
36 for utilities which are necessary for the health and safety of the
37 family.

38 (D) A payment for or denial of permanent housing assistance
39 shall be issued no later than one working day from the time that a
40 family presents evidence of the availability of permanent housing.

1 If an applicant family provides evidence of the availability of
2 permanent housing before the county welfare department has
3 established eligibility for aid under this chapter, the county welfare
4 department shall complete the eligibility determination so that the
5 denial of or payment for permanent housing assistance is issued
6 within one working day from the submission of evidence of the
7 availability of permanent housing, unless the family has failed to
8 provide all of the verification necessary to establish eligibility for
9 aid under this chapter.

10 (E) (i) Except as provided in clauses (ii) and (iii), eligibility
11 for the temporary shelter assistance and the permanent housing
12 assistance pursuant to this paragraph shall be limited to one period
13 of up to 16 consecutive calendar days of temporary assistance and
14 one payment of permanent assistance. Any family that includes a
15 parent or nonparent caretaker relative living in the home who has
16 previously received temporary or permanent homeless assistance
17 at any time on behalf of an eligible child shall not be eligible for
18 further homeless assistance. Any person who applies for homeless
19 assistance benefits shall be informed that the temporary shelter
20 benefit of up to 16 consecutive days is available only once in a
21 lifetime, with certain exceptions, and that a break in the consecutive
22 use of the benefit constitutes permanent exhaustion of the
23 temporary benefit.

24 (ii) A family that becomes homeless as a direct and primary
25 result of a state or federally declared natural disaster shall be
26 eligible for temporary and permanent homeless assistance.

27 (iii) A family shall be eligible for temporary and permanent
28 homeless assistance when homelessness is a direct result of
29 domestic violence by a spouse, partner, or roommate; physical or
30 mental illness that is medically verified that shall not include a
31 diagnosis of alcoholism, drug addiction, or psychological stress;
32 or, the uninhabitability of the former residence caused by sudden
33 and unusual circumstances beyond the control of the family
34 including natural catastrophe, fire, or condemnation. These
35 circumstances shall be verified by a third-party governmental or
36 private health and human services agency, except that domestic
37 violence may also be verified by a sworn statement by the victim,
38 as provided under Section 11495.25. Homeless assistance payments
39 based on these specific circumstances may not be received more
40 often than once in any 12-month period. In addition, if the domestic

1 violence is verified by a sworn statement by the victim, the
2 homeless assistance payments shall be limited to two periods of
3 not more than 16 consecutive calendar days of temporary assistance
4 and two payments of permanent assistance. A county may require
5 that a recipient of homeless assistance benefits who qualifies under
6 this paragraph for a second time in a 24-month period participate
7 in a homelessness avoidance case plan as a condition of eligibility
8 for homeless assistance benefits. The county welfare department
9 shall immediately inform recipients who verify domestic violence
10 by a sworn statement pursuant to clause (iii) of the availability of
11 domestic violence counseling and services, and refer those
12 recipients to services upon request.

13 (iv) If a county requires a recipient who verifies domestic
14 violence by a sworn statement to participate in a homelessness
15 avoidance case plan pursuant to clause (iii), the plan shall include
16 the provision of domestic violence services, if appropriate.

17 (v) If a recipient seeking homeless assistance based on domestic
18 violence pursuant to clause (iii) has previously received homeless
19 avoidance services based on domestic violence, the county shall
20 review whether services were offered to the recipient and consider
21 what additional services would assist the recipient in leaving the
22 domestic violence situation.

23 (vi) The county welfare department shall report to the
24 department through a statewide homeless assistance payment
25 indicator system, necessary data, as requested by the department,
26 regarding all recipients of aid under this paragraph.

27 (F) The county welfare departments, and all other entities
28 participating in the costs of the AFDC program, have the right in
29 their share to any refunds resulting from payment of the permanent
30 housing. However, if an emergency requires the family to move
31 within the 12-month period specified in subparagraph (E), the
32 family shall be allowed to use any refunds received from its
33 deposits to meet the costs of moving to another residence.

34 (G) Payments to providers for temporary shelter and permanent
35 housing and utilities shall be made on behalf of families requesting
36 these payments.

37 (H) The daily amount for the temporary shelter special need for
38 homeless assistance may be increased if authorized by the current
39 year's Budget Act by specifying a different daily allowance and
40 appropriating the funds therefor.

1 (I) No payment shall be made pursuant to this paragraph unless
2 the provider of housing is a commercial establishment, shelter, or
3 person in the business of renting properties who has a history of
4 renting properties.

5 (g) The department shall establish rules and regulations ensuring
6 the uniform application statewide of this subdivision.

7 (h) The department shall notify all applicants and recipients of
8 aid through the standardized application form that these benefits
9 are available and shall provide an opportunity for recipients to
10 apply for the funds quickly and efficiently.

11 (i) Except for the purposes of Section 15200, the amounts
12 payable to recipients pursuant to Section 11453.1 shall not
13 constitute part of the payment schedule set forth in subdivision
14 (a).

15 The amounts payable to recipients pursuant to Section 11453.1
16 shall not constitute income to recipients of aid under this section.

17 (j) For children receiving Kin-GAP pursuant to Article 4.5
18 (commencing with Section 11360) or Article 4.7 (commencing
19 with Section 11385) there shall be paid, exclusive of any amount
20 considered exempt as income, an amount of aid each month, which,
21 when added to the child's income, is equal to the rate specified in
22 Sections 11364 and 11387.

23 SEC. 51. Section 11450.16 of the Welfare and Institutions
24 Code is amended to read:

25 11450.16. (a) For purposes of determining eligibility under
26 this chapter, and for computing the amount of aid payment under
27 Section 11450, families shall be grouped into assistance units.

28 (b) Every assistance unit shall include at least one of the
29 following persons:

30 (1) One of each of the following:

31 (A) An eligible child.

32 (B) The caretaker relative of an otherwise eligible child who is
33 not receiving aid under Section 11250 because that child is
34 receiving benefits under Title XVI of the Social Security Act
35 (Subchapter 16 (commencing with Section 1381) of Chapter 7 of
36 Title 42 of the United States Code), or Kin-GAP payments under
37 Section 11364 or 11387, or foster care payments under Section
38 11461.

39 (2) A pregnant woman who is eligible for payments under
40 subdivision (c) of Section 11450.

1 (c) Every assistance unit shall, in addition to the requirements
2 of subdivision (b), include the eligible parents of the eligible child
3 and the eligible siblings, including half-siblings, of the eligible
4 child when those persons reside in the same home as the eligible
5 child. This subdivision shall not apply to any convicted offender
6 who is permitted to reside at the home of the eligible child as part
7 of a court-imposed sentence and who is considered an absent parent
8 under Section 11250.

9 (d) An assistance unit may, at the option of the family
10 comprising the assistance unit, also include the nonparent caretaker
11 relative of the eligible child, the spouse of the parent of the eligible
12 child, otherwise eligible nonsibling children in the care of the
13 caretaker relative of the eligible child, and the alternatively
14 sentenced offender parent exempted under subdivision (c).

15 (e) If two or more assistance units reside in the same home, they
16 shall be combined into one assistance unit when any of the
17 following circumstances occurs:

18 (1) There is a common caretaker relative for the eligible
19 children.

20 (2) One caretaker relative marries another caretaker relative.

21 (3) Two caretaker relatives are the parents of an eligible child.

22 (f) For purposes of this section, “caretaker relative” means the
23 parent or other relative, as defined by regulations adopted by the
24 department, who exercises responsibility and control of a child.

25 SEC. 52. Section 11454.5 of the Welfare and Institutions Code
26 is amended to read:

27 11454.5. (a) Any month in which the following conditions
28 exist shall not be counted as a month of receipt of aid for the
29 purposes of subdivision (a) of Section 11454:

30 (1) The recipient is exempt from participation under Article 3.2
31 (commencing with Section 11320) due to disability, or advanced
32 age in accordance with paragraph (3) of subdivision (b) of Section
33 11320.3, or due to caretaking responsibilities that impair the
34 recipient’s ability to be regularly employed, in accordance with
35 paragraph (4) or (5) of subdivision (b) of Section 11320.3.

36 (2) The recipient is eligible for, participating in, or exempt from,
37 the Cal-Learn Program provided for pursuant to Article 3.5
38 (commencing with Section 11331), is participating in another teen
39 parent program approved by the department, or, on or after January
40 1, 2012, is a nonminor dependent under the supervision of the

county child welfare or probation department who is placed in an approved relative's home and is eligible for aid under this section because he or she satisfies the conditions described in Section 11403.

(3) The cost of the cash aid provided to the recipient for the month is fully reimbursed by child support, whether collected in that month or any subsequent month.

(4) The family is a former recipient of cash aid under this chapter and currently receives only child care, case management, or supportive services pursuant to Section 11323.2 or Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of the Education Code.

(5) To the extent provided by federal law, the recipient lived in Indian country, as defined by federal law, or an Alaskan native village in which at least 50 percent of the adults living in the Indian country or in the village are not employed.

(b) In cases where a lump-sum diversion payment is provided in lieu of cash aid under Section 11266.5, the month in which the payment is made or the months calculated pursuant to subdivision (f) of Section 11266.5 shall count against the limits specified in Section 11454.

SEC. 53. Section 11461 of the Welfare and Institutions Code is amended to read:

11461. (a) For children or, on and after January 1, 2012, nonminor dependents placed in a licensed or approved family home with a capacity of six or less, or in an approved home of a relative or nonrelated legal guardian, or the approved home of a nonrelative extended family member as described in Section 362.7, or, on and after January 1, 2012, a supervised independent living setting, as defined in subdivision (w) of Section 11400, the per child per month rates in the following schedule shall be in effect for the period July 1, 1989, through December 31, 1989:

Age	Basic rate
0-4.....	\$ 294
5-8.....	319
9-11.....	340
12-14.....	378
15-20.....	412

1 (b) (1) Any county that, as of October 1, 1989, has in effect a
2 basic rate that is at the levels set forth in the schedule in subdivision
3 (a), shall continue to receive state participation, as specified in
4 subdivision (c) of Section 15200, at these levels.

5 (2) Any county that, as of October 1, 1989, has in effect a basic
6 rate that exceeds a level set forth in the schedule in subdivision
7 (a), shall continue to receive the same level of state participation
8 as it received on October 1, 1989.

9 (c) The amounts in the schedule of basic rates in subdivision
10 (a) shall be adjusted as follows:

11 (1) Effective January 1, 1990, the amounts in the schedule of
12 basic rates in subdivision (a) shall be increased by 12 percent.

13 (2) Effective May 1, 1990, any county that did not increase the
14 basic rate by 12 percent on January 1, 1990, shall do both of the
15 following:

16 (A) Increase the basic rate in effect December 31, 1989, for
17 which state participation is received by 12 percent.

18 (B) Increase the basic rate, as adjusted pursuant to subparagraph
19 (A), by an additional 5 percent.

20 (3) (A) Except as provided in subparagraph (B), effective July
21 1, 1990, for the 1990–91 fiscal year, the amounts in the schedule
22 of basic rates in subdivision (a) shall be increased by an additional
23 5 percent.

24 (B) The rate increase required by subparagraph (A) shall not be
25 applied to rates increased May 1, 1990, pursuant to paragraph (2).

26 (4) Effective July 1, 1998, the amounts in the schedule of basic
27 rates in subdivision (a) shall be increased by 6 percent.
28 Notwithstanding any other provision of law, the 6-percent increase
29 provided for in this paragraph shall, retroactive to July 1, 1998,
30 apply to every county, including any county to which paragraph
31 (2) of subdivision (b) applies, and shall apply to foster care for
32 every age group.

33 (5) Notwithstanding any other provision of law, any increase
34 that takes effect after July 1, 1998, shall apply to every county,
35 including any county to which paragraph (2) of subdivision (b)
36 applies, and shall apply to foster care for every age group.

37 (6) The increase in the basic foster family home rate shall apply
38 only to children placed in a licensed foster family home receiving
39 the basic rate or in an approved home of a relative or nonrelative
40 extended family member, as described in Section 362.7, a

1 supervised independent living setting, as defined in subdivision
2 (w) of Section 11400, or a nonrelated legal guardian receiving the
3 basic rate. The increased rate shall not be used to compute the
4 monthly amount that may be paid to licensed foster family agencies
5 for the placement of children in certified foster homes.

6 (d) (1) (A) Beginning with the 1991–92 fiscal year, the
7 schedule of basic rates in subdivision (a) shall be adjusted by the
8 percentage changes in the California Necessities Index, computed
9 pursuant to the methodology described in Section 11453, subject
10 to the availability of funds.

11 (B) In addition to the adjustment in subparagraph (A) effective
12 January 1, 2000, the schedule of basic rates in subdivision (a) shall
13 be increased by 2.36 percent rounded to the nearest dollar.

14 (C) Effective January 1, 2008, the schedule of basic rates in
15 subdivision (a), as adjusted pursuant to subparagraph (B), shall be
16 increased by 5 percent, rounded to the nearest dollar. The increased
17 rate shall not be used to compute the monthly amount that may be
18 paid to licensed foster family agencies for the placement of children
19 in certified foster family homes, and shall not be used to recompute
20 the foster care maintenance payment that would have been paid
21 based on the age-related, state-approved foster family home care
22 rate and any applicable specialized care increment, for any adoption
23 assistance agreement entered into prior to October 1, 1992, or in
24 any subsequent reassessment for adoption assistance agreements
25 executed before January 1, 2008.

26 (2) (A) Any county that, as of the 1991–92 fiscal year, receives
27 state participation for a basic rate that exceeds the amount set forth
28 in the schedule of basic rates in subdivision (a) shall receive an
29 increase each year in state participation for that basic rate of
30 one-half of the percentage adjustments specified in paragraph (1)
31 until the difference between the county’s adjusted state
32 participation level for its basic rate and the adjusted schedule of
33 basic rates is eliminated.

34 (B) Notwithstanding subparagraph (A), all counties for the
35 1999–2000 fiscal year and the 2007–08 fiscal year shall receive
36 an increase in state participation for the basic rate of the entire
37 percentage adjustment described in paragraph (1).

38 (3) If a county has, after receiving the adjustments specified in
39 paragraph (2), a state participation level for a basic rate that is
40 below the amount set forth in the adjusted schedule of basic rates

1 for that fiscal year, the state participation level for that rate shall
2 be further increased to the amount specified in the adjusted
3 schedule of basic rates.

4 (e) (1) As used in this section, “specialized care increment”
5 means an approved amount paid with state participation on behalf
6 of an AFDC-FC child requiring specialized care to a home listed
7 in subdivision (a) in addition to the basic rate. On the effective
8 date of this section, the department shall continue and maintain
9 the current ratesetting system for specialized care.

10 (2) Any county that, as of the effective date of this section, has
11 in effect specialized care increments that have been approved by
12 the department, shall continue to receive state participation for
13 those payments.

14 (3) Any county that, as of the effective date of this section, has
15 in effect specialized care increments that exceed the amounts that
16 have been approved by the department, shall continue to receive
17 the same level of state participation as it received on the effective
18 date of this section.

19 (4) (A) Except for subparagraph (B), beginning January 1,
20 1990, specialized care increments shall be adjusted in accordance
21 with the methodology for the schedule of basic rates described in
22 subdivisions (c) and (d). No county shall receive state participation
23 for any increases in a specialized care increment which exceeds
24 the adjustments made in accordance with this methodology.

25 (B) Notwithstanding subdivision (e) of Section 11460, for the
26 1993–94 fiscal year, an amount equal to 5 percent of the State
27 Treasury appropriation for family homes shall be added to the total
28 augmentation for the AFDC-FC program in order to provide
29 incentives and assistance to counties in the area of specialized
30 care. This appropriation shall be used, but not limited to,
31 encouraging counties to implement or expand specialized care
32 payment systems, to recruit and train foster parents for the
33 placement of children with specialized care needs, and to develop
34 county systems to encourage the placement of children in family
35 homes. It is the intent of the Legislature that in the use of these
36 funds, federal financial participation shall be claimed whenever
37 possible.

38 (f) (1) As used in this section, “clothing allowance” means the
39 amount paid with state participation in addition to the basic rate
40 for the provision of additional clothing for an AFDC-FC child,

1 including, but not limited to, an initial supply of clothing and
2 school or other uniforms.

3 (2) Any county that, as of the effective date of this section, has
4 in effect clothing allowances, shall continue to receive the same
5 level as it received on the effective date of this section.

6 (3) (A) Commencing in the 2007–08 fiscal year, for children
7 whose foster care payment is the responsibility of Colusa, Plumas,
8 and Tehama Counties, the amount of the clothing allowance may
9 be up to two hundred seventy-four dollars (\$274) per child per
10 year.

11 (B) Each county listed in subparagraph (A) that elects to receive
12 the clothing allowance shall submit a Clothing Allowance Program
13 Notification to the department within 60 days after the effective
14 date of the act that adds this paragraph.

15 (C) The Clothing Allowance Program Notification shall identify
16 the specific amounts to be paid and the disbursement schedule for
17 these clothing allowance payments.

18 (4) Beginning January 1, 1990, except as provided in paragraph
19 (5), clothing allowances shall be adjusted annually in accordance
20 with the methodology for the schedule of basic rates described in
21 subdivisions (c) and (d). No county shall be reimbursed for any
22 increases in clothing allowances which exceed the adjustments
23 made in accordance with this methodology.

24 (5) For the 2000–01 fiscal year and each fiscal year thereafter,
25 without a county share of cost, notwithstanding subdivision (c) of
26 Section 15200, each child shall be entitled to receive a
27 supplemental clothing allowance of one hundred dollars (\$100)
28 per year subject to the availability of funds. The clothing allowance
29 shall be used to supplement, and not supplant, the clothing
30 allowance specified in paragraph (1).

31 SEC. 54. Section 11464 of the Welfare and Institutions Code
32 is amended to read:

33 11464. (a) The Legislature finds and declares all of the
34 following:

35 (1) Children who are consumers of regional center services and
36 also receiving Aid to Families with Dependent Children-Foster
37 Care (AFDC-FC), Kinship Guardianship Assistance Payment
38 (Kin-GAP) benefits, or Adoption Assistance Program (AAP)
39 benefits have special needs that can require care and supervision
40 beyond that typically provided to children in foster care. Clarifying

1 the roles of the child welfare and developmental disabilities
2 services systems will ensure that these children receive the services
3 and support they need in a timely manner and encourage the
4 successful adoption of these children, where appropriate.

5 (2) To address the extraordinary care and supervision needs of
6 children who are consumers of regional center services and also
7 receiving AFDC-FC, Kin-GAP, or AAP benefits, it is necessary
8 to provide a rate for care and supervision of these children that is
9 higher than the average rate they would otherwise receive through
10 the foster care system and higher than the rate other children with
11 medical and other significant special needs receive.

12 (3) Despite the enhanced rate provided in this section, some
13 children who are consumers of regional center services and also
14 receiving AFDC-FC, Kin-GAP, or AAP benefits may have care
15 and supervision needs that are so extraordinary that they cannot
16 be addressed within that rate. In these limited circumstances, a
17 process should be established whereby a supplement may be
18 provided in addition to the enhanced rate.

19 (4) Children who receive rates pursuant to this section shall be
20 afforded the same due process rights as all children who apply for
21 AFDC-FC, Kin-GAP, and AAP benefits pursuant to Section 10950.

22 (b) Rates for children who are both regional center consumers
23 and recipients of AFDC-FC or Kin-GAP benefits under this chapter
24 shall be determined as provided in Section 4684 and this section.

25 (c) (1) The rate to be paid for 24-hour out-of-home care and
26 supervision provided to children who are both consumers of
27 regional center services pursuant to subdivision (d) of Section
28 4512 and recipients of AFDC-FC and Kin-GAP benefits under
29 this chapter shall be two thousand six dollars (\$2,006) per child
30 per month.

31 (2) (A) The county, at its sole discretion, may authorize a
32 supplement of up to one thousand dollars (\$1,000) to the rate for
33 children three years of age and older, if it determines the child has
34 the need for extraordinary care and supervision that cannot be met
35 within the rate established pursuant to paragraph (1). The State
36 Department of Social Services and the State Department of
37 Developmental Services, in consultation with stakeholders
38 representing county child welfare agencies, regional centers, and
39 children who are both consumers of regional center services and
40 recipients of AFDC-FC, Kin-GAP, or AAP benefits, shall develop

1 objective criteria to be used by counties in determining eligibility
2 for and the level of the supplements provided pursuant to this
3 paragraph. The State Department of Social Services shall issue an
4 all-county letter to implement these criteria within 120 days of the
5 effective date of this act. The criteria shall take into account the
6 extent to which the child has any of the following:

- 7 (i) Severe impairment in physical coordination and mobility.
- 8 (ii) Severe deficits in self-help skills.
- 9 (iii) Severely disruptive or self-injurious behavior.
- 10 (iv) A severe medical condition.

11 (B) The caregiver may request the supplement described in
12 subparagraph (A) directly or upon referral by a regional center.
13 Referral by a regional center shall not create the presumption of
14 eligibility for the supplement.

15 (C) When assessing a request for the supplement, the county
16 shall seek information from the consumer's regional center to assist
17 in the assessment. The county shall issue a determination of
18 eligibility for the supplement within 90 days of receipt of the
19 request. The county shall report to the State Department of Social
20 Services the number and level of rate supplements issued pursuant
21 to this paragraph.

22 (d) (1) The rate to be paid for 24-hour out-of-home care and
23 supervision provided for children who are receiving services under
24 the California Early Start Intervention Services Act, are not yet
25 determined by their regional center to have a developmental
26 disability, as defined in subdivisions (a) and (l) of Section 4512,
27 and are receiving AFDC-FC or Kin-GAP benefits under this
28 chapter, shall be eight hundred ninety-eight dollars (\$898) per
29 child per month. If a regional center subsequently determines that
30 the child is an individual with a developmental disability as that
31 term is defined by subdivisions (a) and (l) of Section 4512, the
32 rate to be paid from the date of that determination shall be
33 consistent with subdivision (c).

34 (2) The rates to be paid for 24-hour out-of-home nonmedical
35 care and supervision for children who are recipients of AFDC-FC
36 or Kin-GAP and consumers of regional center services from a
37 community care facility licensed pursuant to Chapter 3
38 (commencing with Section 1500) of Division 2 of the Health and
39 Safety Code and vendored by a regional center pursuant to Section
40 56004 of Title 17 of the California Code of Regulations, shall be

1 the facility rate established by the State Department of
2 Developmental Services.

3 (e) Rates paid pursuant to this section are subject to all of the
4 following requirements:

5 (1) The rates paid to the foster care provider under subdivision
6 (c) and paragraph (1) of subdivision (d) are only for the care and
7 supervision of the child, as defined in subdivision (b) of Section
8 11460 and shall not be applicable to facilities described in
9 paragraph (2) of subdivision (d).

10 (2) Regional centers shall separately purchase or secure the
11 services that are contained in the child's Individualized Family
12 Service Plan (IFSP) or Individual Program Plan (IPP), pursuant
13 to Section 4684.

14 (3) In the event that the schedule of basic foster care rates, as
15 specified in Section 11461, is increased on or after July 1, 2008,
16 the rates in subdivisions (c), (d), and (f) shall be similarly adjusted.
17 No county shall be reimbursed for any increase in this rate that
18 exceeds the adjustments made in accordance with this
19 methodology.

20 (f) (1) The AFDC-FC rates paid on behalf of a regional center
21 consumer who is a recipient of AFDC-FC prior to July 1, 2007,
22 shall remain in effect unless a change in the placement warrants
23 redetermination of the rate or if the child is no longer AFDC-FC
24 eligible. However, AFDC-FC rates paid on behalf of these children
25 that are lower than the rates specified in paragraph (1) of
26 subdivision (c) or paragraph (1) of subdivision (d), respectively,
27 shall be increased as appropriate to the amount set forth in
28 paragraph (1) of subdivision (c) or paragraph (1) of subdivision
29 (d), effective July 1, 2007, and shall remain in effect unless a
30 change in the placement or a change in AFDC-FC eligibility of
31 the child warrants redetermination of the rate.

32 (2) For a child who is receiving AFDC-FC benefits or for whom
33 a foster care eligibility determination is pending, and for whom
34 an eligibility determination for regional center services pursuant
35 to subdivision (a) of Section 4512 is pending or approved, and for
36 whom, prior to July 1, 2007, a State Department of Developmental
37 Services facility rate determination request has been made and is
38 pending, the rate shall be the State Department of Developmental
39 Services facility rate determined by the regional center through an
40 individualized assessment, or the rate established in paragraph (1)

1 of subdivision (c), whichever is greater. The rate shall remain in
2 effect until the child is no longer eligible to receive AFDC-FC, or,
3 if still AFDC-FC eligible, is found ineligible for regional center
4 services as an individual described in subdivision (a) of Section
5 4512. Other than the circumstances described in this section,
6 regional centers shall not establish facility rates for AFDC-FC
7 purposes.

8 (g) (1) The department shall adopt emergency regulations in
9 accordance with Chapter 3.5 (commencing with Section 11340)
10 of Part 1 of Division 3 of Title 2 of the Government Code, and for
11 the purposes of that chapter, including Section 11349.6 of the
12 Government Code, on or before July 1, 2009.

13 (2) The adoption of regulations pursuant to paragraph (1) shall
14 be deemed an emergency and necessary for the immediate
15 preservation of the public peace, health, safety, and general welfare.
16 The regulations authorized by this subdivision shall remain in
17 effect for no more than 180 days, by which time final regulations
18 shall be adopted.

19 (h) (1) The State Department of Social Services and the State
20 Department of Developmental Services shall provide to the Joint
21 legislative Budget Committee, on a semiannual basis, the data set
22 forth in paragraph (2) to facilitate legislative review of the
23 outcomes of the changes made by the addition of this section and
24 the amendments made to Sections 4684 and 16121 by the act
25 adding this section. The first report shall be submitted on October
26 1, 2007, with subsequent reports submitted on March 1 and October
27 1 of each year.

28 (2) The following data shall be provided pursuant to this
29 subdivision:

30 (A) The number of, and services provided to, children who are
31 consumers of regional center services and who are receiving AAP,
32 Kin-GAP, or AFDC-FC, broken out by children receiving the
33 amount pursuant to paragraph (1) of subdivision (c), the amount
34 pursuant to paragraph (1) of subdivision (d), and the level of
35 supplement pursuant to subparagraph (A) of paragraph (2) of
36 subdivision (c).

37 (B) A comparison of services provided to these children and
38 similar children who are regional center consumers who do not
39 receive AFDC-FC, Kin-GAP, or AAP benefits, broken out by
40 children receiving the amount pursuant to paragraph (1) of

1 subdivision (c), the amount pursuant to paragraph (1) of subdivision
2 (d), and the level of supplement pursuant to subparagraph (A) of
3 paragraph (2) of subdivision (c).

4 (C) The number and nature of appeals filed regarding services
5 provided or secured by regional centers for these children,
6 consistent with Section 4714, broken out by children receiving the
7 amount pursuant to paragraph (1) of subdivision (c), the amount
8 pursuant to paragraph (1) of subdivision (d), and the level of
9 supplement pursuant to subparagraph (A) of paragraph (2) of
10 subdivision (c).

11 (D) The number of these children who are adopted before and
12 after the act adding this section, broken out by children receiving
13 the amount pursuant to paragraph (1) of subdivision (c), the amount
14 pursuant to paragraph (1) of subdivision (d), and the level of
15 supplement pursuant to subparagraph (A) of paragraph (2) of
16 subdivision (c).

17 (E) The number and levels of supplements requested pursuant
18 to subparagraph (B) of paragraph (2) of subdivision (c).

19 (F) The number of appeals requested of the decision by counties
20 to deny the request for the supplement pursuant to subparagraph
21 (A) of paragraph (2) of subdivision (c).

22 (G) The total number and levels of supplements authorized
23 pursuant to subparagraph (A) of paragraph (2) of subdivision (c)
24 and the number of these supplements authorized upon appeal.

25 (i) Commencing January 1, 2012, the rate described in
26 subdivision (c) shall be paid for an eligible nonminor dependent
27 who is under 21 years of age, is receiving AFDC-FC or Kin-GAP
28 benefits pursuant to Section 11403, and is a consumer of regional
29 center services.

30 SEC. 55. Section 11465 of the Welfare and Institutions Code
31 is amended to read:

32 11465. (a) When a child is living with a parent who receives
33 AFDC-FC or Kin-GAP benefits, the rate paid to the provider on
34 behalf of the parent shall include an amount for care and
35 supervision of the child.

36 (b) For each category of eligible licensed community care
37 facility, as defined in Section 1502 of the Health and Safety Code,
38 the department shall adopt regulations setting forth a uniform rate
39 to cover the cost of care and supervision of the child in each
40 category of eligible licensed community care facility.

(c) (1) On and after July 1, 1998, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be increased by 6 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new uniform rate.

(2) (A) On and after July 1, 1999, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be adjusted by an amount equal to the California Necessities Index computed pursuant to Section 11453, rounded to the nearest dollar. The resultant amounts shall constitute the new uniform rate, subject to further adjustment pursuant to subparagraph (B).

(B) In addition to the adjustment specified in subparagraph (A), on and after January 1, 2000, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new uniform rate.

(3) Subject to the availability of funds, for the 2000–01 fiscal year and annually thereafter, these rates shall be adjusted for cost of living pursuant to procedures in Section 11453.

(4) On and after January 1, 2008, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be increased by 5 percent, rounded to the nearest dollar. The resulting amount shall constitute the new uniform rate.

(d) (1) Notwithstanding subdivisions (a) to (c), inclusive, the payment made pursuant to this section for care and supervision of a child who is living with a teen parent in a whole family foster home, as defined in Section 11400, shall equal the basic rate for children placed in a licensed or approved home as specified in subdivisions (a) to (d), inclusive, of Section 11461.

(2) The amount paid for care and supervision of a dependent infant living with a dependent teen parent receiving AFDC-FC benefits in a group home placement shall equal the infant supplement rate for group home placements.

(3) The caregiver shall provide the county child welfare agency or probation department with a copy of the shared responsibility plan developed pursuant to Section 16501.25 and shall advise the county child welfare agency or probation department of any subsequent changes to the plan. Once the plan has been completed and provided to the appropriate agencies, the payment made pursuant to this section shall be increased by an additional two hundred dollars (\$200) per month to reflect the increased care and

1 supervision while he or she is placed in the whole family foster
2 home.

3 (4) In any year in which the payment provided pursuant to this
4 section is adjusted for the cost of living as provided in paragraph
5 (1) of subdivision (c), the payments provided for in this subdivision
6 shall also be increased by the same procedures.

7 (5) A Kin-GAP relative who, immediately prior to entering the
8 Kin-GAP program, was designated as a whole family foster home
9 shall receive the same payment amounts for the care and
10 supervision of a child who is living with a teen parent they received
11 in foster care as a whole family foster home.

12 (6) On and after January 1, 2012, the rate paid for a child living
13 with a teen parent in a whole family foster home as defined in
14 Section 11400 shall also be paid for a child living with a nonminor
15 dependent parent who is eligible to receive AFDC-FC or Kin-GAP
16 pursuant to Section 11403.

17 SEC. 56. Section 11466.23 of the Welfare and Institutions
18 Code is amended to read:

19 11466.23. (a) It is the intent of the Legislature to comply with
20 the federal requirements of the Improper Payments Act of 2002
21 with respect to the remittance of the federal share of foster care
22 overpayments.

23 (b) For the purposes of this section, a federal foster care or
24 adoption assistance overpayment is defined as any amount of aid
25 paid to which a foster care provider or adoption assistance recipient
26 was not entitled, including any overpayment identified by a foster
27 care provider as described in Section 11400, or federal Adoption
28 Assistance Program recipient as described in Chapter 2.1
29 (commencing with Section 16115) of Part 4, and on and after the
30 date that the director executes a declaration pursuant to Section
31 11217, any federal Kin-GAP aid paid to which a related guardian
32 was not entitled, including any overpayment identified by a federal
33 Kin-GAP recipient as described in Article 4.7 (commencing with
34 Section 11385).

35 (c) Counties shall be required to remit the appropriate amount
36 of federal funds upon identification of the overpayment, following
37 the completion of due process.

38 (1) Counties shall not be required to repay the overpayment
39 when any of the following occurs:

1 (A) The amount is legally uncollectible, including any amount
2 legally uncollectible pursuant to Section 11466.24.

3 (B) The cost of collection exceeds the overpayment.

4 (C) The foster family agency or group home is no longer in
5 business or licensed by the department.

6 (2) Remittance of overpayments of federal AFDC-FC funds,
7 federal Kin-GAP, and federal AAP funds not excluded by
8 paragraph (1) shall be shared by the state and the counties based
9 on a 40-percent state, 60-percent county sharing ratio. Upon actual
10 collection of any overpayments from providers or recipients, the
11 county shall ensure that the total amount reimbursed to the state
12 reflects the federal and state share of the overpayment costs, as
13 specified. All overpayments of federal AFDC-FC funds, federal
14 Kin-GAP, and federal AAP funds included in paragraph (1) shall
15 be repaid completely with state funds.

16 (3) Nothing in this section shall inhibit existing county authority
17 to collect overpayments.

18 (4) Nothing in this section shall inhibit existing county
19 responsibility to remit voluntary overpayments upon collection.

20 (d) (1) The department shall adopt regulations to implement
21 this section by December 31, 2008. Notwithstanding Chapter 3.5
22 (commencing with Section 11340) of Part 1 of Division 3 of Title
23 2 of the Government Code, the department, in consultation and
24 coordination with the County Welfare Directors Association, may
25 adopt emergency regulations to implement this section.

26 (2) The adoption of emergency regulations pursuant to
27 subdivision (a) shall be deemed to be an emergency and necessary
28 for the immediate preservation of the public peace, health, safety,
29 or general welfare. The emergency regulations authorized by this
30 section shall be submitted to the Office of Administrative Law for
31 filing with the Secretary of State and shall remain in effect for no
32 more than 180 days, by which time final regulations shall be
33 adopted.

34 (e) The department may only require counties to remit payment
35 of the federal share for overpayments upon identification that occur
36 on or after the effective date of regulations adopted pursuant to
37 this section.

38 SEC. 57. Section 11466.24 of the Welfare and Institutions
39 Code is amended to read:

1 11466.24. (a) In accordance with this section, a county shall
2 collect an overpayment, discovered on or after January 1, 1999,
3 made to a foster family home, an approved home of a relative,
4 including, on and after the date that the director executes a
5 declaration pursuant to Section 11217, the home of a Kin-GAP
6 guardian, an approved home of a nonrelative extended family
7 member, or an approved home of a nonrelative legal guardian, or,
8 on and after January 1, 2012, the supervised independent living
9 setting where a nonminor dependent resides, for any period of time
10 in which the foster child was not cared for in that home, unless
11 any of the following conditions exist, in which case a county shall
12 not collect the overpayment:

13 (1) The cost of the collection exceeds that amount of the
14 overpayment that is likely to be recovered by the county. The cost
15 of collecting the overpayment and the likelihood of collection shall
16 be documented by the county. Costs that the county shall consider
17 when determining the cost-effectiveness to collect are total
18 administrative, personnel, legal filing fee, and investigative costs,
19 and any other applicable costs.

20 (2) The child was temporarily removed from the home and
21 payment was owed to the provider to maintain the child's
22 placement, or the child was temporarily absent from the provider's
23 home, or on runaway status and subsequently returned, and
24 payment was made to the provider to meet the child's needs.

25 (3) The overpayment was exclusively the result of a county
26 administrative error or both the county welfare department and
27 the provider or nonminor dependent were unaware of the
28 information that would establish that the foster child or nonminor
29 dependent was not eligible for foster care benefits.

30 (4) The provider or nonminor dependent did not have knowledge
31 of, and did not contribute to, the cause of the overpayment.

32 (b) (1) After notification by a county of an overpayment to a
33 foster family home, an approved home of a relative, including the
34 home of a Kin-GAP guardian, or a nonrelative extended family
35 member, approved home of a nonrelative legal guardian, or the
36 supervised independent living setting where the nonminor
37 dependent resides, and a demand letter for repayment, the foster
38 parent, approved relative, approved nonrelative legal guardian, or
39 nonminor dependent may request the county welfare department
40 to review the overpayment determination in an informal hearing,

1 or may file with the department a request for a hearing to appeal
2 the overpayment determination. Requesting an informal hearing
3 shall not preclude a payee from seeking a formal hearing at a later
4 date. The county welfare department shall dismiss the overpayment
5 repayment request if it determines the action to be incorrect through
6 an initial review prior to a state hearing, or through a review in an
7 informal hearing held at the request of the foster parent, relative,
8 nonrelative legal guardian, or nonminor dependent.

9 (2) If an informal hearing does not result in the dismissal of the
10 overpayment, or a formal appeal hearing is not requested, or on
11 the 30th day following a formal appeal hearing decision, whichever
12 is later, the foster family provider overpayment shall be sustained
13 for collection purposes.

14 (3) The department shall adopt regulations that ensure that the
15 best interests of the child or nonminor dependent shall be the
16 primary concern of the county welfare director in any repayment
17 agreement.

18 (c) (1) The department shall develop regulations for recovery
19 of overpayments made to any foster family home, approved home
20 of a relative, approved home of a nonrelative legal guardian, or
21 supervised independent living setting where a nonminor dependent
22 resides. The regulations shall prioritize collection methods, that
23 shall include voluntary repayment agreement procedures and
24 involuntary overpayment collection procedures. These procedures
25 shall take into account the amount of the overpayment and a
26 minimum required payment amount.

27 (2) A county shall not collect an overpayment through the use
28 of an involuntary payment agreement unless a foster family home,
29 an approved home of a relative, approved home of a nonrelative
30 legal guardian, or supervised independent living setting where a
31 nonminor dependent resides has rejected the offer of a voluntary
32 overpayment agreement, or has failed to comply with the terms of
33 the voluntary overpayment agreement.

34 (3) A county shall not be permitted to collect an overpayment
35 through the offset of payments due to a foster family home, an
36 approved home of a relative, approved home of a nonrelative legal
37 guardian or supervised independent living setting where a nonminor
38 dependent resides, unless this method of repayment is requested
39 by the provider or nonminor dependent in a voluntary repayment

1 agreement, or other circumstances defined by the department by
2 regulation.

3 (d) If a provider or nonminor dependent is successful in its
4 appeal of a collected overpayment, it shall be repaid the collected
5 overpayment plus simple interest based on the Surplus Money
6 Investment Fund.

7 (e) A county may not collect interest on the repayment of an
8 overpayment.

9 (f) There shall be a one-year statute of limitations from the date
10 upon which the county determined that there was an overpayment.

11 SEC. 58. Section 16120 of the Welfare and Institutions Code,
12 as amended by Section 19 of Chapter 287 of the Statutes of 2009,
13 is amended to read:

14 16120. A child shall be eligible for Adoption Assistance
15 Program benefits if all of the conditions specified in subdivisions
16 (a) to (l), inclusive, are met or if the conditions specified in
17 subdivision (m) are met.

18 (a) It has been determined that the child cannot or should not
19 be returned to the home of his or her parents as evidenced by a
20 petition for termination of parental rights, a court order terminating
21 parental rights, or a signed relinquishment, or, in the case of a
22 tribal customary adoption, if the court has given full faith and
23 credit to a tribal customary adoption order as provided for pursuant
24 to paragraph (2) of subdivision (e) of Section 366.26.

25 (b) The child has at least one of the following characteristics
26 that are barriers to his or her adoption:

27 (1) Adoptive placement without financial assistance is unlikely
28 because of membership in a sibling group that should remain intact
29 or by virtue of race, ethnicity, color, language, three years of age
30 or older, or parental background of a medical or behavioral nature
31 that can be determined to adversely affect the development of the
32 child.

33 (2) Adoptive placement without financial assistance is unlikely
34 because the child has a mental, physical, emotional, or medical
35 disability that has been certified by a licensed professional
36 competent to make an assessment and operating within the scope
37 of his or her profession. This paragraph shall also apply to children
38 with a developmental disability, as defined in subdivision (a) of
39 Section 4512, including those determined to require out-of-home
40 nonmedical care, as described in Section 11464.

(c) The need for adoption subsidy is evidenced by an unsuccessful search for an adoptive home to take the child without financial assistance, as documented in the case file of the prospective adoptive child. The requirement for this search shall be waived when it would be against the best interest of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of these persons as a foster child.

(d) The child satisfies any of the following criteria:

(1) He or she is under 18 years of age.

(2) He or she is under 21 years of age and has a mental or physical handicap that warrants the continuation of assistance.

(3) Effective January 1, 2012, he or she is under 19 years of age, effective January 1, 2013, he or she is under 20 years of age, and effective January 1, 2014, he or she is under 21 years of age and attained 16 years of age before the adoption assistance agreement became effective, and one or more of the following applies:

~~(A) The youth is completing secondary education or a program leading to an equivalent credential.~~

~~(B) The youth is enrolled in an institution that provides postsecondary or vocational education.~~

~~(C) The youth is participating in a program or activity designed to promote or remove barriers to employment.~~

~~(D) The youth is employed for at least 80 hours per month.~~

~~(E) The youth is incapable of doing any of the activities described in subparagraphs (A) to (D), inclusive, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the child. conditions specified in subdivision (d) of Section 11403.~~

(e) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and has signed an adoption assistance agreement.

(f) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(g) The department or the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid, and the prospective adoptive parent, prior to or at the time the adoption decree is issued by the court, have

1 signed an adoption assistance agreement that stipulates the need
2 for, and the amount of, Adoption Assistance Program benefits.

3 (h) The prospective adoptive parent or any adult living in the
4 prospective adoptive home has completed the criminal background
5 check requirements pursuant to Section 671(a)(20)(A) and (C) of
6 Title 42 of the United States Code.

7 (i) To be eligible for state funding, the child is the subject of an
8 agency adoption, as defined in Section 8506 of the Family Code
9 and was any of the following:

10 (1) Under the supervision of a county welfare department as
11 the subject of a legal guardianship or juvenile court dependency.

12 (2) Relinquished for adoption to a licensed California private
13 or public adoption agency, or another public agency operating a
14 Title IV-E program on behalf of the state, and would have
15 otherwise been at risk of dependency as certified by the responsible
16 public child welfare agency.

17 (3) Committed to the care of the department pursuant to Section
18 8805 or 8918 of the Family Code.

19 (4) The child is an Indian child and the subject of an order of
20 adoption based on tribal customary adoption of an Indian child,
21 as described in Section 366.24. Notwithstanding Section 8600.5
22 of the Family Code, for purposes of this subdivision a tribal
23 customary adoption shall be considered an agency adoption.

24 (j) To be eligible for federal funding, in the case of a child who
25 is not an applicable child for the federal fiscal year as defined in
26 subdivision (n), the child satisfies any of the following criteria:

27 (1) Prior to the finalization of an agency adoption, as defined
28 in Section 8506 of the Family Code, or an independent adoption,
29 as defined in Section 8524 of the Family Code, is filed, the child
30 has met the requirements to receive federal supplemental security
31 income benefits pursuant to Subchapter 16 (commencing with
32 Section 1381) of Chapter 7 of Title 42 of the United States Code,
33 as determined and documented by the federal Social Security
34 Administration.

35 (2) The child was removed from the home of a specified relative
36 and the child would have been AFDC-eligible in the home of
37 removal according to Section 606(a) or 607 of Title 42 of the
38 United States Code, as those sections were in effect on July 16,
39 1996, in the month of the voluntary placement agreement or in the
40 month court proceedings are initiated to remove the child, resulting

1 in a judicial determination that continuation in the home would be
2 contrary to the child's welfare. The child must have been living
3 with the specified relative from whom he or she was removed
4 within six months of the month the voluntary placement agreement
5 was signed or the petition to remove was filed.

6 (3) The child was voluntarily relinquished to a licensed public
7 or private adoption agency, or another public agency operating a
8 Title IV-E program on behalf of the state, and there is a petition
9 to the court to remove the child from the home within six months
10 of the time the child lived with a specified relative and a subsequent
11 judicial determination that remaining in the home would be
12 contrary to the child's welfare.

13 (4) Title IV-E foster care maintenance was paid on behalf of
14 the child's minor parent and covered the cost of the minor parent's
15 child while the child was in the foster family home or child care
16 institution with the minor parent.

17 (5) The child is an Indian child and the subject of an order of
18 adoption based on tribal customary adoption of an Indian child,
19 as described in Section 366.24.

20 (k) To be eligible for federal funding, in the case of a child who
21 is an applicable child for the federal fiscal year, as defined in
22 subdivision (n), the child meets any of the following criteria:

23 (1) At the time of initiation of adoptive proceedings was in the
24 care of a public or licensed private child placement agency or
25 Indian tribal organization pursuant to either of the following:

26 (A) An involuntary removal of the child from the home in
27 accordance with a judicial determination to the effect that
28 continuation in the home would be contrary to the welfare of the
29 child.

30 (B) A voluntary placement agreement or a voluntary
31 relinquishment.

32 (2) He or she meets all medical or disability requirements of
33 Title XVI with respect to eligibility for supplemental security
34 income benefits.

35 (3) He or she was residing in a foster family home or a child
36 care institution with the child's minor parent, and the child's minor
37 parent was in the foster family home or child care institution
38 pursuant to either of the following:

39 (A) An involuntary removal of the child from the home in
40 accordance with a judicial determination to the effect that

1 continuation in the home would be contrary to the welfare of the
2 child.

3 (B) A voluntary placement agreement or voluntary
4 relinquishment.

5 (4) The child is an Indian child and the subject of an order of
6 adoption based on tribal customary adoption of an Indian child,
7 as described in Section 366.24.

8 (l) The child is a citizen of the United States or a qualified alien
9 as defined in Section 1641 of Title 8 of the United States Code. If
10 the child is a qualified alien who entered the United States on or
11 after August 22, 1996, and is placed with an unqualified alien, the
12 child must meet the five-year residency requirement pursuant to
13 Section 673(a)(2)(B) of Title 42 of the United States Code, unless
14 the child is a member of one of the excepted groups pursuant to
15 Section 1612(b) of Title 8 of the United States Code.

16 (m) A child shall be eligible for Adoption Assistance Program
17 benefits if the following conditions are met:

18 (1) The child received Adoption Assistance Program benefits
19 with respect to a prior adoption and the child is again available for
20 adoption because the prior adoption was dissolved and the parental
21 rights of the adoptive parents were terminated or because the
22 child's adoptive parents died and the child meets the special needs
23 criteria described in subdivisions (a) to (c), inclusive.

24 (2) To receive federal funding, the citizenship requirements in
25 subdivision (l).

26 (n) (1) Except as provided in this subdivision, "applicable child"
27 means a child for whom an adoption assistance agreement is
28 entered into under this section during any federal fiscal year
29 described in this subdivision if the child attained the applicable
30 age for that federal fiscal year before the end of that federal fiscal
31 year.

32 (A) For federal fiscal year 2010, the applicable age is 16 years.

33 (B) For federal fiscal year 2011, the applicable age is 14 years.

34 (C) For federal fiscal year 2012, the applicable age is 12 years.

35 (D) For federal fiscal year 2013, the applicable age is 10 years.

36 (E) For federal fiscal year 2014, the applicable age is eight years.

37 (F) For federal fiscal year 2015, the applicable age is six years.

38 (G) For federal fiscal year 2016, the applicable age is four years.

39 (H) For federal fiscal year 2017, the applicable age is two years.

40 (I) For federal fiscal year 2018 and thereafter, any age.

(2) Beginning with the 2010 federal fiscal year, the term “applicable child” shall include a child of any age on the date on which an adoption assistance agreement is entered into on behalf of the child under this section if the child meets both of the following criteria:

(A) He or she has been in foster care under the responsibility of the state for at least 60 consecutive months.

(B) He or she meets the requirements of subdivision (k).

(3) Beginning with the 2010 federal fiscal year, an applicable child shall include a child of any age on the date that an adoption assistance agreement is entered into on behalf of the child under this section, without regard to whether the child is described in paragraph (2), if the child meets all of the following criteria:

(A) He or she is a sibling of a child who is an applicable child for the federal fiscal year, under subdivision (n) or paragraph (2).

(B) He or she is to be placed in the same adoption placement as an “applicable child” for the federal fiscal year who is their sibling.

(C) He or she meets the requirements of subdivision (k).

(o) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 59. Section 16120 of the Welfare and Institutions Code, as added by Section 20 of Chapter 287 of the Statutes of 2009, is amended to read:

16120. A child shall be eligible for Adoption Assistance Program benefits if all of the conditions specified in subdivisions (a) to (l), inclusive, are met or if the conditions specified in subdivision (m) are met.

(a) It has been determined that the child cannot or should not be returned to the home of his or her parents as evidenced by a petition for termination of parental rights, a court order terminating parental rights, or a signed relinquishment.

(b) The child has at least one of the following characteristics that are barriers to his or her adoption:

(1) Adoptive placement without financial assistance is unlikely because of membership in a sibling group that should remain intact or by virtue of race, ethnicity, color, language, three years of age or older, or parental background of a medical or behavioral nature

1 that can be determined to adversely affect the development of the
2 child.

3 (2) Adoptive placement without financial assistance is unlikely
4 because the child has a mental, physical, emotional, or medical
5 disability that has been certified by a licensed professional
6 competent to make an assessment and operating within the scope
7 of his or her profession. This paragraph shall also apply to children
8 with a developmental disability, as defined in subdivision (a) of
9 Section 4512, including those determined to require out-of-home
10 nonmedical care, as described in Section 11464.

11 (c) The need for adoption subsidy is evidenced by an
12 unsuccessful search for an adoptive home to take the child without
13 financial assistance, as documented in the case file of the
14 prospective adoptive child. The requirement for this search shall
15 be waived when it would be against the best interest of the child
16 because of the existence of significant emotional ties with
17 prospective adoptive parents while in the care of these persons as
18 a foster child.

19 (d) The child satisfies any of the following criteria:

20 (1) He or she is under 18 years of age.

21 (2) He or she is under 21 years of age and has a mental or
22 physical handicap that warrants the continuation of assistance.

23 (3) Effective January 1, 2012, he or she is under 19 years of
24 age, effective January 1, 2013, he or she is under 20 years of age,
25 and effective January 1, 2014, he or she is under 21 years of age
26 and attained 16 years of age before the adoption assistance
27 agreement became effective, and one or more of the following
28 applies:

29 ~~(A) The youth is completing secondary education or a program~~
30 ~~leading to an equivalent credential.~~

31 ~~(B) The youth is enrolled in an institution that provides~~
32 ~~postsecondary or vocational education.~~

33 ~~(C) The youth is participating in a program or activity designed~~
34 ~~to promote or remove barriers to employment.~~

35 ~~(D) The youth is employed for at least 80 hours per month.~~

36 ~~(E) The youth is incapable of doing any of the activities~~
37 ~~described in subparagraphs (A) to (D), inclusive, due to a medical~~
38 ~~condition, and that incapability is supported by regularly updated~~
39 ~~information in the case plan of the child. conditions specified in~~
40 *subdivision (d) of Section 11403.*

1 (e) The adoptive family is responsible for the child pursuant to
2 the terms of an adoptive placement agreement or a final decree of
3 adoption and has signed an adoption assistance agreement.

4 (f) The adoptive family is legally responsible for the support of
5 the child and the child is receiving support from the adoptive
6 parent.

7 (g) The department or the county responsible for determining
8 the child's Adoption Assistance Program eligibility status and for
9 providing financial aid, and the prospective adoptive parent, prior
10 to or at the time the adoption decree is issued by the court, have
11 signed an adoption assistance agreement that stipulates the need
12 for, and the amount of, Adoption Assistance Program benefits.

13 (h) The prospective adoptive parent or any adult living in the
14 prospective adoptive home has completed the criminal background
15 check requirements pursuant to Section 671(a)(20)(A) and (C) of
16 Title 42 of the United States Code.

17 (i) To be eligible for state funding, the child is the subject of an
18 agency adoption, as defined in Section 8506 of the Family Code
19 and was any of the following:

20 (1) Under the supervision of a county welfare department as
21 the subject of a legal guardianship or juvenile court dependency.

22 (2) Relinquished for adoption to a licensed California private
23 or public adoption agency, or another public agency operating a
24 Title IV-E program on behalf of the state, and would have
25 otherwise been at risk of dependency as certified by the responsible
26 public child welfare agency.

27 (3) Committed to the care of the department pursuant to Section
28 8805 or 8918 of the Family Code.

29 (j) To be eligible for federal funding, in the case of a child who
30 is not an applicable child for the federal fiscal year as defined in
31 subdivision (n), the child satisfies any of the following criteria:

32 (1) Prior to the finalization of an agency adoption, as defined
33 in Section 8506 of the Family Code, or an independent adoption,
34 as defined in Section 8524 of the Family Code, is filed, the child
35 has met the requirements to receive federal supplemental security
36 income benefits pursuant to Subchapter 16 (commencing with
37 Section 1381) of Chapter 7 of Title 42 of the United States Code,
38 as determined and documented by the federal Social Security
39 Administration.

1 (2) The child was removed from the home of a specified relative
2 and the child would have been AFDC-eligible in the home of
3 removal according to Section 606(a) or 607 of Title 42 of the
4 United States Code, as those sections were in effect on July 16,
5 1996, in the month of the voluntary placement agreement or in the
6 month court proceedings are initiated to remove the child, resulting
7 in a judicial determination that continuation in the home would be
8 contrary to the child's welfare. The child must have been living
9 with the specified relative from whom he or she was removed
10 within six months of the month the voluntary placement agreement
11 was signed or the petition to remove was filed.

12 (3) The child was voluntarily relinquished to a licensed public
13 or private adoption agency, or another public agency operating a
14 Title IV-E program on behalf of the state, and there is a petition
15 to the court to remove the child from the home within six months
16 of the time the child lived with a specified relative and a subsequent
17 judicial determination that remaining in the home would be
18 contrary to the child's welfare.

19 (4) Title IV-E foster care maintenance was paid on behalf of
20 the child's minor parent and covered the cost of the minor parent's
21 child while the child was in the foster family home or child care
22 institution with the minor parent.

23 (k) To be eligible for federal funding, in the case of a child who
24 is an applicable child for the federal fiscal year, as defined in
25 subdivision (n), the child meets any of the following criteria:

26 (1) At the time of initiation of adoptive proceedings was in the
27 care of a public or licensed private child placement agency or
28 Indian tribal organization pursuant to either of the following:

29 (A) An involuntary removal of the child from the home in
30 accordance with a judicial determination to the effect that
31 continuation in the home would be contrary to the welfare of the
32 child.

33 (B) A voluntary placement agreement or a voluntary
34 relinquishment.

35 (2) He or she meets all medical or disability requirements of
36 Title XVI with respect to eligibility for supplemental security
37 income benefits.

38 (3) He or she was residing in a foster family home or a child
39 care institution with the child's minor parent, and the child's minor

1 parent was in the foster family home or child care institution
2 pursuant to either of the following:

3 (A) An involuntary removal of the child from the home in
4 accordance with a judicial determination to the effect that
5 continuation in the home would be contrary to the welfare of the
6 child.

7 (B) A voluntary placement agreement or voluntary
8 relinquishment.

9 (l) The child is a citizen of the United States or a qualified alien
10 as defined in Section 1641 of Title 8 of the United States Code. If
11 the child is a qualified alien who entered the United States on or
12 after August 22, 1996, and is placed with an unqualified alien, the
13 child must meet the five-year residency requirement pursuant to
14 Section 673(a)(2)(B) of Title 42 of the United States Code, unless
15 the child is a member of one of the excepted groups pursuant to
16 Section 1612(b) of Title 8 of the United States Code.

17 (m) A child shall be eligible for Adoption Assistance Program
18 benefits if the following conditions are met:

19 (1) The child received Adoption Assistance Program benefits
20 with respect to a prior adoption and the child is again available for
21 adoption because the prior adoption was dissolved and the parental
22 rights of the adoptive parents were terminated or because the
23 child's adoptive parents died and the child meets the special needs
24 criteria described in subdivisions (a) to (c), inclusive.

25 (2) To receive federal funding, the citizenship requirements in
26 subdivision (l).

27 (n) (1) Except as provided in this subdivision, "applicable child"
28 means a child for whom an adoption assistance agreement is
29 entered into under this section during any federal fiscal year
30 described in this subdivision if the child attained the applicable
31 age for that federal fiscal year before the end of that federal fiscal
32 year.

33 (A) For federal fiscal year 2010, the applicable age is 16 years.

34 (B) For federal fiscal year 2011, the applicable age is 14 years.

35 (C) For federal fiscal year 2012, the applicable age is 12 years.

36 (D) For federal fiscal year 2013, the applicable age is 10 years.

37 (E) For federal fiscal year 2014, the applicable age is eight years.

38 (F) For federal fiscal year 2015, the applicable age is six years.

39 (G) For federal fiscal year 2016, the applicable age is four years.

40 (H) For federal fiscal year 2017, the applicable age is two years.

1 (I) For federal fiscal year 2018 and thereafter, any age.

2 (2) Beginning with the 2010 federal fiscal year, the term
3 “applicable child” shall include a child of any age on the date on
4 which an adoption assistance agreement is entered into on behalf
5 of the child under this section if the child meets both of the
6 following criteria:

7 (A) He or she has been in foster care under the responsibility
8 of the state for at least 60 consecutive months.

9 (B) He or she meets the requirements of subdivision (k).

10 (3) Beginning with the 2010 federal fiscal year, an applicable
11 child shall include a child of any age on the date that an adoption
12 assistance agreement is entered into on behalf of the child under
13 this section, without regard to whether the child is described in
14 paragraph (2), if the child meets all of the following criteria:

15 (A) He or she is a sibling of a child who is an applicable child
16 for the federal fiscal year, under subdivision (n) or paragraph (2).

17 (B) He or she is to be placed in the same adoption placement
18 as an applicable child for the federal fiscal year who is his or her
19 sibling.

20 (C) He or she meets the requirements of subdivision (k).

21 (o) This section shall become operative on January 1, 2014.

22 SEC. 60. Section 16123 of the Welfare and Institutions Code
23 is amended to read:

24 16123. The provisions of Section 16120, permitting the
25 payment of adoption assistance until a child attains the age of 18
26 or 21 if the child has mental or physical handicaps, or effective
27 January 1, 2012, up to 21 years of age, if the child meets the criteria
28 specified in paragraph (3) of subdivision (d) of Section 16120,
29 shall be effective as long as federal funds are available under Title
30 IV-E of the federal Social Security Act (Part E (commencing with
31 Section 670) of Subchapter 4 of Chapter 7 of Title 42 of the United
32 States Code), and the state continues to exercise its option to extend
33 payments up to 21 years of age, pursuant to Section 473(a)(4) of
34 the federal Social Security Act (42 U.S.C. Sec. 673(a)(4)). When
35 those funds cease to be available, the maximum length for payment
36 of the Adoption Assistance Program shall be five years except in
37 instances in which there is a continuing need, related to a chronic
38 health condition of the child which necessitated the initial financial
39 assistance. In those cases, a parent may, until October 1, 1992,
40 petition the department or licensed adoption agency to continue

1 financial assistance up to age of majority. On and after October 1,
2 1992, the parent may petition the department or the responsible
3 county to continue financial assistance up to the age of majority.

4 SEC. 61. Section 16501 of the Welfare and Institutions Code
5 is amended to read:

6 16501. (a) As used in this chapter, “child welfare services”
7 means public social services which are directed toward the
8 accomplishment of any or all of the following purposes: protecting
9 and promoting the welfare of all children, including handicapped,
10 homeless, dependent, or neglected children; preventing or
11 remedying, or assisting in the solution of problems which may
12 result in, the neglect, abuse, exploitation, or delinquency of
13 children; preventing the unnecessary separation of children from
14 their families by identifying family problems, assisting families
15 in resolving their problems, and preventing breakup of the family
16 where the prevention of child removal is desirable and possible;
17 restoring to their families children who have been removed, by
18 the provision of services to the child and the families; identifying
19 children to be placed in suitable adoptive homes, in cases where
20 restoration to the biological family is not possible or appropriate;
21 and ensuring adequate care of children away from their homes, in
22 cases where the child cannot be returned home or cannot be placed
23 for adoption.

24 “Child welfare services” also means services provided on behalf
25 of children alleged to be the victims of child abuse, neglect, or
26 exploitation. The child welfare services provided on behalf of each
27 child represent a continuum of services, including emergency
28 response services, family preservation services, family maintenance
29 services, family reunification services, and permanent placement
30 services, including transitional independent living services. The
31 individual child’s case plan is the guiding principle in the provision
32 of these services. The case plan shall be developed within a
33 maximum of 60 days of the initial removal of the child or of the
34 in-person response required under subdivision (f) if the child has
35 not been removed from his or her home, or by the date of the
36 dispositional hearing pursuant to Section 358, whichever comes
37 first.

38 (1) Child welfare services may include, but are not limited to,
39 a range of service-funded activities, including case management,
40 counseling, emergency shelter care, emergency in-home caretakers,

1 temporary in-home caretakers, respite care, therapeutic day
2 services, teaching and demonstrating homemakers, parenting
3 training, substance abuse testing, and transportation. These
4 service-funded activities shall be available to children and their
5 families in all phases of the child welfare program in accordance
6 with the child's case plan and departmental regulations. Funding
7 for services is limited to the amount appropriated in the annual
8 Budget Act and other available county funds.

9 (2) Service-funded activities to be provided may be determined
10 by each county, based upon individual child and family needs as
11 reflected in the service plan.

12 (3) As used in this chapter, "emergency shelter care" means
13 emergency shelter provided to children who have been removed
14 pursuant to Section 300 from their parent or parents or their
15 guardian or guardians. The department may establish, by
16 regulation, the time periods for which emergency shelter care shall
17 be funded. For the purposes of this paragraph, "emergency shelter
18 care" may include "transitional shelter care facilities" as defined
19 in paragraph (11) of subdivision (a) of Section 1502 of the Health
20 and Safety Code.

21 (b) As used in this chapter, "respite care" means temporary care
22 for periods not to exceed 72 hours. This care may be provided to
23 the child's parents or guardians. This care shall not be limited by
24 regulation to care over 24 hours. These services shall not be
25 provided for the purpose of routine, ongoing child care.

26 (c) The county shall provide child welfare services as needed
27 pursuant to an approved service plan and in accordance with
28 regulations promulgated, in consultation with the counties, by the
29 department. Counties may contract for service-funded activities
30 as defined in paragraph (1) of subdivision (a). Each county shall
31 use available private child welfare resources prior to developing
32 new county-operated resources when the private child welfare
33 resources are of at least equal quality and lesser or equal cost as
34 compared with county-operated resources. Counties shall not
35 contract for needs assessment, client eligibility determination, or
36 any other activity as specified by regulations of the State
37 Department of Social Services, except as specifically authorized
38 in Section 16100.

1 (d) Nothing in this chapter shall be construed to affect duties
2 which are delegated to probation officers pursuant to Sections 601
3 and 654.

4 (e) Any county may utilize volunteer individuals to supplement
5 professional child welfare services by providing ancillary support
6 services in accordance with regulations adopted by the State
7 Department of Social Services.

8 (f) As used in this chapter, emergency response services consist
9 of a response system providing in-person response, 24 hours a day,
10 seven days a week, to reports of abuse, neglect, or exploitation, as
11 required by Article 2.5 (commencing with Section 11164) of
12 Chapter 2 of Title 1 of Part 4 of the Penal Code for the purpose of
13 investigation pursuant to Section 11166 of the Penal Code and to
14 determine the necessity for providing initial intake services and
15 crisis intervention to maintain the child safely in his or her own
16 home or to protect the safety of the child. County welfare
17 departments shall respond to any report of imminent danger to a
18 child immediately and all other reports within 10 calendar days.
19 An in-person response is not required when the county welfare
20 department, based upon an evaluation of risk, determines that an
21 in-person response is not appropriate. This evaluation includes
22 collateral, contacts, a review of previous referrals, and other
23 relevant information, as indicated.

24 (g) As used in this chapter, family maintenance services are
25 activities designed to provide in-home protective services to
26 prevent or remedy neglect, abuse, or exploitation, for the purposes
27 of preventing separation of children from their families.

28 (h) As used in this chapter, family reunification services are
29 activities designed to provide time-limited foster care services to
30 prevent or remedy neglect, abuse, or exploitation, when the child
31 cannot safely remain at home, and needs temporary foster care,
32 while services are provided to reunite the family.

33 (i) As used in this chapter, permanent placement services are
34 activities designed to provide an alternate permanent family
35 structure for children who because of abuse, neglect, or exploitation
36 cannot safely remain at home and who are unlikely to ever return
37 home. These services shall be provided on behalf of children for
38 whom there has been a judicial determination of a permanent plan
39 for adoption, legal guardianship, or long-term foster care, and, as
40 needed, shall include transitional independent living services.

1 (j) As used in this chapter, family preservation services include
2 those services specified in Section 16500.5 to avoid or limit
3 out-of-home placement of children, and may include those services
4 specified in that section to place children in the least restrictive
5 environment possible.

6 (k) (1) (A) In any county electing to implement this
7 subdivision, all county welfare department employees who have
8 frequent and routine contact with children shall, by February 1,
9 1997, and all welfare department employees who are expected to
10 have frequent and routine contact with children and who are hired
11 on or after January 1, 1996, and all such employees whose duties
12 change after January 1, 1996, to include frequent and routine
13 contact with children, shall, if the employees provide services to
14 children who are alleged victims of abuse, neglect, or exploitation,
15 sign a declaration under penalty of perjury regarding any prior
16 criminal conviction, and shall provide a set of fingerprints to the
17 county welfare director.

18 (B) The county welfare director shall secure from the
19 Department of Justice a criminal record to determine whether the
20 employee has ever been convicted of a crime other than a minor
21 traffic violation. The Department of Justice shall deliver the
22 criminal record to the county welfare director.

23 (C) If it is found that the employee has been convicted of a
24 crime, other than a minor traffic violation, the county welfare
25 director shall determine whether there is substantial and convincing
26 evidence to support a reasonable belief that the employee is of
27 good character so as to justify frequent and routine contact with
28 children.

29 (D) No exemption shall be granted pursuant to subparagraph
30 (C) if the person has been convicted of a sex offense against a
31 minor, or has been convicted of an offense specified in Section
32 220, 243.4, 264.1, 273d, 288, or 289 of the Penal Code, or in
33 paragraph (1) of Section 273a of, or subdivision (a) or (b) of
34 Section 368 of, the Penal Code, or has been convicted of an offense
35 specified in subdivision (c) of Section 667.5 of the Penal Code.
36 The county welfare director shall suspend such a person from any
37 duties involving frequent and routine contact with children.

38 (E) Notwithstanding subparagraph (D), the county welfare
39 director may grant an exemption if the employee or prospective
40 employee, who was convicted of a crime against an individual

1 specified in paragraph (1) or (7) of subdivision (c) of Section 667.5
2 of the Penal Code, has been rehabilitated as provided in Section
3 4852.03 of the Penal Code and has maintained the conduct required
4 in Section 4852.05 of the Penal Code for at least 10 years and has
5 the recommendation of the district attorney representing the
6 employee's or prospective employee's county of residence, or if
7 the employee or prospective employee has received a certificate
8 of rehabilitation pursuant to Chapter 3.5 (commencing with Section
9 4852.01) of Title 6 of Part 3 of the Penal Code. In that case, the
10 county welfare director may give the employee or prospective
11 employee an opportunity to explain the conviction and shall
12 consider that explanation in the evaluation of the criminal
13 conviction record.

14 (F) If no criminal record information has been recorded, the
15 county welfare director shall cause a statement of that fact to be
16 included in that person's personnel file.

17 (2) For purposes of this subdivision, a conviction means a plea
18 or verdict of guilty or a conviction following a plea of nolo
19 contendere. Any action which the county welfare director is
20 permitted to take following the establishment of a conviction may
21 be taken when the time for appeal has elapsed, or the judgment of
22 conviction has been affirmed on appeal or when an order granting
23 probation is made suspending the imposition of sentence,
24 notwithstanding a subsequent order pursuant to Sections 1203.4
25 and 1203.4a of the Penal Code permitting the person to withdraw
26 his or her plea of guilty and to enter a plea of not guilty, or setting
27 aside the verdict of guilty, or dismissing the accusation,
28 information, or indictment. For purposes of this subdivision, the
29 record of a conviction, or a copy thereof certified by the clerk of
30 the court or by a judge of the court in which the conviction
31 occurred, shall be conclusive evidence of the conviction.

32 SEC. 62. Section 16501.1 of the Welfare and Institutions Code
33 is amended to read:

34 16501.1. (a) (1) The Legislature finds and declares that the
35 foundation and central unifying tool in child welfare services is
36 the case plan.

37 (2) The Legislature further finds and declares that a case plan
38 ensures that the child receives protection and safe and proper care
39 and case management, and that services are provided to the child
40 and parents or other caretakers, as appropriate, in order to improve

1 conditions in the parent's home, to facilitate the safe return of the
2 child to a safe home or the permanent placement of the child, and
3 to address the needs of the child while in foster care.

4 (b) (1) A case plan shall be based upon the principles of this
5 section and shall document that a preplacement assessment of the
6 service needs of the child and family, and preplacement preventive
7 services, have been provided, and that reasonable efforts to prevent
8 out-of-home placement have been made.

9 (2) In determining the reasonable services to be offered or
10 provided, the child's health and safety shall be the paramount
11 concerns.

12 (3) (A) In determining the reasonable services to be offered or
13 provided, the case plan shall include information, to the extent
14 possible, about a parent's incarceration in a county jail or the state
15 prison during the time that a minor child of that parent is involved
16 in dependency care. Once a consistent data entry field or fields
17 have been designated in the statewide child welfare database, social
18 workers shall make reasonable efforts to collect and update
19 necessary data regarding a child's incarcerated parent or parents.

20 (B) In order to further the goals of this paragraph, the Legislature
21 encourages the State Department of Social Services to consult with
22 the county welfare directors regarding the best way to incorporate
23 the information specified in subparagraph (A) as a required field
24 in the statewide database. The Legislature also encourages the
25 Department of Justice, the Department of Corrections and
26 Rehabilitation, county welfare departments, and county sheriffs
27 to develop protocols for facilitating the exchange of information
28 regarding the location and sentencing of the incarcerated parent
29 or parents of a minor child who is in dependency care.

30 (C) Nothing in this paragraph shall be interpreted to require the
31 department to create a new dedicated field in the statewide database
32 for incorporating the information specified in subparagraph (A).

33 (4) Reasonable services shall be offered or provided to make it
34 possible for a child to return to a safe home environment, unless,
35 pursuant to subdivisions (b) and (e) of Section 361.5, the court
36 determines that reunification services shall not be provided.

37 (5) If reasonable services are not ordered, or are terminated,
38 reasonable efforts shall be made to place the child in a timely
39 manner in accordance with the permanent plan and to complete
40 all steps necessary to finalize the permanent placement of the child.

(c) (1) If out-of-home placement is used to attain case plan goals, the decision regarding choice of placement shall be based upon selection of a safe setting that is the least restrictive or most familylike and the most appropriate setting that is available and in close proximity to the parent's home, proximity to the child's school, consistent with the selection of the environment best suited to meet the child's special needs and best interests, or both. The selection shall consider, in order of priority, placement with relatives, tribal members, and foster family, group care, and residential treatment pursuant to Section 7950 of the Family Code. On or after January 1, 2012, for a nonminor dependent, as defined in subdivision (v) of Section 11400, who is receiving AFDC-FC benefits up to 21 years of age pursuant to Section 11403, in addition to the above requirements, the selection of the placement, including a supervised independent living setting, as described in Section 11400, shall also be based upon the developmental needs of young adults by providing opportunities to have incremental responsibilities that prepare a nonminor dependent to transition to independent living. When a nonminor dependent is placed in a group home, the case plan shall also specify why that placement is necessary for the nonminor dependent's transition to independent living.

(2) In addition to the requirements of paragraph (1), and taking into account other statutory considerations regarding placement, the selection of the most appropriate home that will meet the child's special needs and best interests shall also promote educational stability by taking into consideration proximity to the child's school attendance area.

(d) A written case plan shall be completed within a maximum of 60 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the dispositional hearing pursuant to Section 358, whichever occurs first. The case plan shall be updated, as the service needs of the child and family dictate. At a minimum, the case plan shall be updated in conjunction with each status review hearing conducted pursuant to Section 366.21, and the hearing conducted pursuant to Section 366.26, but no less frequently than once every six months. Each updated case plan shall include a description of the services that have been provided to the child under the plan

1 and an evaluation of the appropriateness and effectiveness of those
2 services.

3 (1) It is the intent of the Legislature that extending the maximum
4 time available for preparing a written case plan from 30 to 60 days
5 will afford caseworkers time to actively engage families, and to
6 solicit and integrate into the case plan the input of the child and
7 the child's family, as well as the input of relatives and other
8 interested parties.

9 (2) The extension of the maximum time available for preparing
10 a written case plan from the 30 to 60 days shall be effective 90
11 days after the date that the department gives counties written notice
12 that necessary changes have been made to the Child Welfare
13 Services Case Management System to account for the 60-day
14 timeframe for preparing a written case plan.

15 (e) The child welfare services case plan shall be comprehensive
16 enough to meet the juvenile court dependency proceedings
17 requirements pursuant to Article 6 (commencing with Section 300)
18 of Chapter 2 of Part 1 of Division 2.

19 (f) The case plan shall be developed as follows:

20 (1) The case plan shall be based upon an assessment of the
21 circumstances that required child welfare services intervention.
22 The child shall be involved in developing the case plan as age and
23 developmentally appropriate.

24 (2) The case plan shall identify specific goals and the
25 appropriateness of the planned services in meeting those goals.

26 (3) The case plan shall identify the original allegations of abuse
27 or neglect, as defined in Article 2.5 (commencing with Section
28 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
29 conditions cited as the basis for declaring the child a dependent of
30 the court pursuant to Section 300, or all of these, and the other
31 precipitating incidents that led to child welfare services
32 intervention.

33 (4) The case plan shall include a description of the schedule of
34 the social worker contacts with the child and the family or other
35 caretakers. The frequency of these contacts shall be in accordance
36 with regulations adopted by the State Department of Social
37 Services. If the child has been placed in foster care out of state,
38 the county social worker or a social worker on the staff of the
39 social services agency in the state in which the child has been
40 placed shall visit the child in a foster family home or the home of

1 a relative, consistent with federal law and in accordance with the
2 department's approved state plan. For children in out-of-state group
3 home facilities, visits shall be conducted at least monthly, pursuant
4 to Section 16516.5. At least once every six months, at the time of
5 a regularly scheduled social worker contact with the foster child,
6 the child's social worker shall inform the child of his or her rights
7 as a foster child, as specified in Section 16001.9. The social worker
8 shall provide the information to the child in a manner appropriate
9 to the age or developmental level of the child.

10 (5) (A) When out-of-home services are used, the frequency of
11 contact between the natural parents or legal guardians and the child
12 shall be specified in the case plan. The frequency of those contacts
13 shall reflect overall case goals, and consider other principles
14 outlined in this section.

15 (B) Information regarding any court-ordered visitation between
16 the child and the natural parents or legal guardians, and the terms
17 and conditions needed to facilitate the visits while protecting the
18 safety of the child, shall be provided to the child's out-of-home
19 caregiver as soon as possible after the court order is made.

20 (6) When out-of-home placement is made, the case plan shall
21 include provisions for the development and maintenance of sibling
22 relationships as specified in subdivisions (b), (c), and (d) of Section
23 16002. If appropriate, when siblings who are dependents of the
24 juvenile court are not placed together, the social worker for each
25 child, if different, shall communicate with each of the other social
26 workers and ensure that the child's siblings are informed of
27 significant life events that occur within their extended family.
28 Unless it has been determined that it is inappropriate in a particular
29 case to keep siblings informed of significant life events that occur
30 within the extended family, the social worker shall determine the
31 appropriate means and setting for disclosure of this information
32 to the child commensurate with the child's age and emotional
33 well-being. These significant life events shall include, but shall
34 not be limited to, the following:

35 (A) The death of an immediate relative.

36 (B) The birth of a sibling.

37 (C) Significant changes regarding a dependent child, unless the
38 child objects to the sharing of the information with his or her
39 siblings, including changes in placement, major medical or mental

1 health diagnoses, treatments, or hospitalizations, arrests, and
2 changes in the permanent plan.

3 (7) If out-of-home placement is made in a foster family home,
4 group home, or other child care institution that is either a
5 substantial distance from the home of the child's parent or out of
6 state, the case plan shall specify the reasons why that placement
7 is in the best interest of the child. When an out-of-state group home
8 placement is recommended or made, the case plan shall, in
9 addition, specify compliance with Section 7911.1 of the Family
10 Code.

11 (8) Effective January 1, 2010, a case plan shall ensure the
12 educational stability of the child while in foster care and shall
13 include both of the following:

14 (A) An assurance that the placement takes into account the
15 appropriateness of the current educational setting and the proximity
16 to the school in which the child is enrolled at the time of placement.

17 (B) An assurance that the placement agency has coordinated
18 with appropriate local educational agencies to ensure that the child
19 remains in the school in which the child is enrolled at the time of
20 placement, or, if remaining in that school is not in the best interests
21 of the child, assurances by the placement agency and the local
22 educational agency to provide immediate and appropriate
23 enrollment in a new school and to provide all of the child's
24 educational records to the new school.

25 (9) (A) If out-of-home services are used, or if parental rights
26 have been terminated and the case plan is placement for adoption,
27 the case plan shall include a recommendation regarding the
28 appropriateness of unsupervised visitation between the child and
29 any of the child's siblings. This recommendation shall include a
30 statement regarding the child's and the siblings' willingness to
31 participate in unsupervised visitation. If the case plan includes a
32 recommendation for unsupervised sibling visitation, the plan shall
33 also note that information necessary to accomplish this visitation
34 has been provided to the child or to the child's siblings.

35 (B) Information regarding the schedule and frequency of the
36 visits between the child and siblings, as well as any court-ordered
37 terms and conditions needed to facilitate the visits while protecting
38 the safety of the child, shall be provided to the child's out-of-home
39 caregiver as soon as possible after the court order is made.

1 (10) If out-of-home services are used and the goal is
2 reunification, the case plan shall describe the services to be
3 provided to assist in reunification and the services to be provided
4 concurrently to achieve legal permanency if efforts to reunify fail.
5 The plan shall also consider in-state and out-of-state placements,
6 the importance of developing and maintaining sibling relationships
7 pursuant to Section 16002, and the desire and willingness of the
8 caregiver to provide legal permanency for the child if reunification
9 is unsuccessful.

10 (11) If out-of-home services are used, the child has been in care
11 for at least 12 months, and the goal is not adoptive placement, the
12 case plan shall include documentation of the compelling reason
13 or reasons why termination of parental rights is not in the child's
14 best interest. A determination completed or updated within the
15 past 12 months by the department when it is acting as an adoption
16 agency or by a licensed adoption agency that it is unlikely that the
17 child will be adopted, or that one of the conditions described in
18 paragraph (1) of subdivision (c) of Section 366.26 applies, shall
19 be deemed a compelling reason.

20 (12) (A) Parents and legal guardians shall have an opportunity
21 to review the case plan, and to sign it whenever possible, and then
22 shall receive a copy of the plan. In any voluntary service or
23 placement agreement, the parents or legal guardians shall be
24 required to review and sign the case plan. Whenever possible,
25 parents and legal guardians shall participate in the development
26 of the case plan. Commencing January 1, 2012, for nonminor
27 dependents, as defined in subdivision (v) of Section 11400, who
28 are receiving AFDC-FC up to 21 years of age pursuant to Section
29 11403, the case plan shall be developed with, and signed by, the
30 nonminor.

31 (B) Parents and legal guardians shall be advised that, pursuant
32 to Section 1228.1 of the Evidence Code, neither their signature on
33 the child welfare services case plan nor their acceptance of any
34 services prescribed in the child welfare services case plan shall
35 constitute an admission of guilt or be used as evidence against the
36 parent or legal guardian in a court of law. However, they shall also
37 be advised that the parent's or guardian's failure to cooperate,
38 except for good cause, in the provision of services specified in the
39 child welfare services case plan may be used in any hearing held
40 pursuant to Section 366.21 or 366.22 as evidence.

1 (13) A child shall be given a meaningful opportunity to
2 participate in the development of the case plan and state his or her
3 preference for foster care placement. A child who is 12 years of
4 age or older and in a permanent placement shall also be given the
5 opportunity to review the case plan, sign the case plan, and receive
6 a copy of the case plan.

7 (14) The case plan shall be included in the court report and shall
8 be considered by the court at the initial hearing and each review
9 hearing. Modifications to the case plan made during the period
10 between review hearings need not be approved by the court if the
11 casework supervisor for that case determines that the modifications
12 further the goals of the plan. If out-of-home services are used with
13 the goal of family reunification, the case plan shall consider and
14 describe the application of subdivision (b) of Section 11203.

15 (15) If the case plan has as its goal for the child a permanent
16 plan of adoption or placement in another permanent home, it shall
17 include a statement of the child's wishes regarding their permanent
18 placement plan and an assessment of those stated wishes. The
19 agency shall also include documentation of the steps the agency
20 is taking to find an adoptive family or other permanent living
21 arrangements for the child; to place the child with an adoptive
22 family, an appropriate and willing relative, a legal guardian, or in
23 another planned permanent living arrangement; and to finalize the
24 adoption or legal guardianship. At a minimum, the documentation
25 shall include child-specific recruitment efforts, such as the use of
26 state, regional, and national adoption exchanges, including
27 electronic exchange systems, when the child has been freed for
28 adoption.

29 (16) (A) When appropriate, for a child who is 16 years of age
30 or older and, commencing January 1, 2012, for a nonminor
31 dependent, the case plan shall include a written description of the
32 programs and services that will help the child, consistent with the
33 child's best interests, prepare for the transition from foster care to
34 independent living, and whether the youth has an in-progress
35 application pending for Title XVI Supplemental Security Income
36 benefits or for Special Juvenile Immigration Status or other
37 applicable application for legal residency and an active dependency
38 case is required for that application. When appropriate, for a
39 nonminor dependent, the case plan shall include a written
40 description of the program and services that will help the nonminor

1 dependent, consistent with his or her best interests, to prepare for
2 transition from foster care and assist the youth in meeting the
3 eligibility criteria set forth in Section 11403. If applicable, the case
4 plan shall describe the individualized supervision provided in the
5 supervised independent living setting as defined, in subdivision
6 (w) of Section 11400. The case plan shall be developed with the
7 child or nonminor dependent and individuals identified as important
8 to the child or nonminor dependent, and shall include steps the
9 agency is taking to ensure that the child or nonminor dependent
10 achieves permanence, including maintaining or obtaining
11 permanent connections to caring and committed adults.

12 (B) During the 90-day period prior to the participant attaining
13 18 years of age or older as the state may elect under Section
14 475(8)(B)(iii) (42 U.S.C. Sec. 675(8)(B)(iii)) of the federal Social
15 Security Act, whether during that period foster care maintenance
16 payments are being made on the child's behalf or the child is
17 receiving benefits or services under Section 477 (42 U.S.C. Sec.
18 677) of the federal Social Security Act, a caseworker or other
19 appropriate agency staff or probation officer and other
20 representatives of the participant, as appropriate, shall provide the
21 youth or nonminor with assistance and support in developing the
22 written transitional independent living plan, that is personalized
23 at the direction of the child, information as detailed as the
24 participant elects that shall include, but not be limited to, options
25 regarding housing, health insurance, education, local opportunities
26 for mentors and continuing support services, and workforce
27 supports and employment services.

28 (g) If the court finds, after considering the case plan, that
29 unsupervised sibling visitation is appropriate and has been
30 consented to, the court shall order that the child or the child's
31 siblings, the child's current caregiver, and the child's prospective
32 adoptive parents, if applicable, be provided with information
33 necessary to accomplish this visitation. This section does not
34 require or prohibit the social worker's facilitation, transportation,
35 or supervision of visits between the child and his or her siblings.

36 (h) The case plan documentation on sibling placements required
37 under this section shall not require modification of existing case
38 plan forms until the Child Welfare Services Case Management
39 System is implemented on a statewide basis.

1 (i) When a child who is 10 years of age or older and who has
2 been in out-of-home placement for six months or longer, the case
3 plan shall include an identification of individuals, other than the
4 child's siblings, who are important to the child and actions
5 necessary to maintain the child's relationship with those
6 individuals, provided that those relationships are in the best interest
7 of the child. The social worker shall ask every child who is 10
8 years of age or older and who has been in out-of-home placement
9 for six months or longer to identify individuals other than the
10 child's siblings who are important to the child, and may ask any
11 other child to provide that information, as appropriate. The social
12 worker shall make efforts to identify other individuals who are
13 important to the child, consistent with the child's best interests.

14 (j) The child's caregiver shall be provided a copy of a plan
15 outlining the child's needs and services.

16 (k) On or before June 30, 2008, the department, in consultation
17 with the County Welfare Directors Association and other
18 advocates, shall develop a comprehensive plan to ensure that 90
19 percent of foster children are visited by their caseworkers on a
20 monthly basis by October 1, 2011, and that the majority of the
21 visits occur in the residence of the child. The plan shall include
22 any data reporting requirements necessary to comply with the
23 provisions of the federal Child and Family Services Improvement
24 Act of 2006 (Public Law 109-288).

25 (l) The implementation and operation of the amendments to
26 subdivision (i) enacted at the 2005-06 Regular Session shall be
27 subject to appropriation through the budget process and by phase,
28 as provided in Section 366.35.

29 SEC. 63. Section 16501.25 of the Welfare and Institutions
30 Code is amended to read:

31 16501.25. (a) For the purposes of this section, "teen parent"
32 means a child who has been adjudged to be a dependent child or
33 ward of the court on the grounds that he or she is a person described
34 under Section 300 or 602, or a ward of a nonrelated legal guardian
35 whose guardianship was established pursuant to Section 360 or
36 366.26, living in out-of-home placement in a whole family foster
37 home, as defined in subdivision (u) of Section 11400, who is a
38 parent. Commencing January 1, 2012, "teen parent" also means a
39 nonminor dependent, as defined in subdivision (v) of Section
40 11400, who is living in a whole family foster home, as defined in

1 subdivision (t) of Section 11400, and is eligible for AFDC-FC or
2 Kin-GAP payments pursuant to Section 11403.

3 (b) (1) When the child of a teen parent is not subject to the
4 jurisdiction of the dependency court but is in the full or partial
5 physical custody of the teen parent, a written shared responsibility
6 plan shall be developed. The plan shall be developed between the
7 teen parent, caregiver, and a representative of the county child
8 welfare agency or probation department, and in the case of a
9 certified home, a representative of the agency providing direct and
10 immediate supervision to the caregiver. Additional input may be
11 provided by any individuals identified by the teen parent, the other
12 parent of the child, if appropriate, and other extended family
13 members. The plan shall be developed as soon as is practicably
14 possible. However, if one or more of the above stakeholders are
15 not available to participate in the creation of the plan within the
16 first 30 days of the teen parent's placement, the teen parent and
17 caregiver may enter into a plan for the purposes of fulfilling the
18 requirements of paragraph (2) of subdivision (d) of Section 11465,
19 which may be modified at a later time when the other individuals
20 become available.

21 (2) The plan shall be designed to preserve and strengthen the
22 teen parent family unit, as described in Section 16002.5, to assist
23 the teen parent in meeting the goals outlined in Section 16002.5,
24 to facilitate a supportive home environment for the teen parent and
25 the child, and to ultimately enable the teen parent to independently
26 provide a safe, stable, and permanent home for the child. The plan
27 shall in no way limit the teen parent's legal right to make decisions
28 regarding the care, custody, and control of the child.

29 (3) The plan shall be written for the express purpose of aiding
30 the teen parent and the caregiver to reach agreements aimed at
31 reducing conflict and misunderstandings. The plan shall outline,
32 with as much specificity as is practicable, the duties, rights, and
33 responsibilities of both the teen parent and the caregiver with regard
34 to the child, and identify supportive services to be offered to the
35 teen parent by the caregiver or, in the case of a certified home, the
36 agency providing direct and immediate supervision to the caregiver,
37 or both. The plan shall be updated, as needed, to account for the
38 changing needs of infants and toddlers, and in accordance with
39 the teen parent's changing school, employment, or other outside
40 responsibilities. The plan shall not conflict with the teen parent's

1 case plan. Areas to be addressed by the plan include, but are not
2 limited to, all of the following:

3 (A) Feeding.

4 (B) Clothing.

5 (C) Hygiene.

6 (D) Purchase of necessary items, including, but not limited to,
7 safety items, food, clothing, and developmentally appropriate toys
8 and books. This includes both one-time purchases and items needed
9 on an ongoing basis.

10 (E) Health care.

11 (F) Transportation to health care appointments, child care, and
12 school, as appropriate.

13 (G) Provision of child care and babysitting.

14 (H) Discipline.

15 (I) Sleeping arrangements.

16 (J) Visits among the child, his or her noncustodial parent, and
17 other appropriate family members, including the responsibilities
18 of the teen parent, the caregiver, and the foster family agency, as
19 appropriate, for facilitating the visitation. The shared responsibility
20 plan shall not conflict with the teen parent's case plan and any
21 visitation orders made by the court.

22 (c) Upon completion of the shared responsibility plan and any
23 subsequent updates to the plan, a copy shall be provided to the
24 teen parent and his or her attorney, the caregiver, the county child
25 welfare agency or probation department and, in the case of a
26 certified home, the agency providing direct and immediate
27 supervision to the caregiver.

28 (d) The shared responsibility plan requirements shall no longer
29 apply when the two hundred-dollar (\$200) monthly payment is
30 made under the Kin-GAP program pursuant to Article 4.5
31 (commencing with Section 11360) of Chapter 2 of Part 3 to a
32 former whole family foster home pursuant to subdivision (a) of
33 Section 11465.

34 SEC. 64. Section 16503 of the Welfare and Institutions Code
35 is amended to read:

36 16503. (a) Subsequent to completion of the hearing conducted
37 pursuant to Section 366.26, the agency responsible for placement
38 and care of a minor, as defined in subdivision (k) of Section 11400,
39 shall ensure that a child in foster care shall receive administrative
40 reviews periodically but no less frequently than once every six

1 months. The administrative review shall determine the
2 appropriateness of the placement, the continuing appropriateness
3 and extent of compliance with the permanent plan for the child,
4 the extent of compliance with the case plan, and adequacy of
5 services provided to the child.

6 (b) The term “administrative review” means a review open to
7 the participation of the parents of a child in foster care conducted
8 by a panel of appropriate persons at least one of whom is not
9 responsible for the case management of, or the delivery of services
10 to, either the child or the parents who are the subject of the review.

11 (c) The department shall develop and implement regulations
12 establishing processes, procedures, and standards for the conduct
13 of administrative reviews that conform to Section 675.6 of Title
14 42 of the United States Code.

15 (d) The requirements of this section shall not be interpreted as
16 requiring duplicate concurrent court and administrative reviews.

17 SEC. 65. Section 16507.3 of the Welfare and Institutions Code
18 is amended to read:

19 16507.3. (a) Beginning on October 1, 1982, child welfare
20 services for children placed voluntarily after January 1, 1982, shall
21 be limited to a period not to exceed 180 days. Subject to the
22 availability of federal funding, voluntary placement services for
23 federally eligible children may be extended for an additional six
24 months, for a total period not to exceed 12 months for either of
25 the following:

26 (1) Families who have a custodial parent or guardian in
27 residential substance abuse treatment who is demonstrating
28 progress that indicates the problems warranting the initial
29 placement are likely to be resolved within the extended time period.

30 (2) Families whose minor child is seriously emotionally
31 disturbed, who requires placement in a residential treatment facility,
32 who otherwise would be likely to be found to fit the description
33 in subdivision (c) of Section 300, and who reasonably may be
34 expected to be returned home within the extended time period.

35 (b) Whenever a seriously emotionally disturbed child as
36 described in paragraph (2) of subdivision (a) is initially voluntarily
37 placed, the initial placement shall be made pursuant to the approval
38 of an interagency administrative review board as described in
39 paragraph (4) of subdivision (a) of Section 16507.6.

1 (c) The extension of voluntary placement services for an
2 additional six months shall be subject to the approval of an
3 administrative review board pursuant to paragraphs (4) and (5) of
4 subdivision (a) of Section 16507.6. The extension of voluntary
5 placement services is contingent upon the receipt of federal
6 funding. Any administrative and foster care costs that exceed the
7 amount of federal reimbursement shall be paid solely with county
8 funds.

9 (d) An otherwise eligible child placed voluntarily prior to
10 January 1, 1982, may remain eligible for child welfare services
11 without regard to the length of time in placement until April 1,
12 1984. Beginning on October 1, 1982, such a child shall receive
13 administrative review pursuant to the requirements of Section
14 16503.

15 SEC. 66. Section 16507.4 of the Welfare and Institutions Code
16 is amended to read:

17 16507.4. (a) Notwithstanding any other provisions of this
18 chapter, voluntary family reunification services shall be provided
19 without fee to families who qualify, or would qualify if application
20 had been made therefor, as recipients of public assistance under
21 the Aid to Families with Dependent Children program as described
22 in the State Plan in effect on July 1, 1996. If the family is not
23 qualified for aid, voluntary family reunification services may be
24 utilized, provided that the county seeks reimbursement from the
25 parent or guardian on a statewide sliding scale according to income
26 as determined by the State Department of Social Services and
27 approved by the Department of Finance. The fee may be waived
28 if the social worker determines that the payment of the fee may
29 be a barrier to reunification. Section 17552 of the Family Code
30 shall also apply.

31 (b) An out-of-home placement of a minor without adjudication
32 by the juvenile court may occur only when all of the following
33 conditions exist:

34 (1) There is a mutual decision between the child's parent or
35 guardian and the county welfare department in accordance with
36 regulations promulgated by the State Department of Social
37 Services.

38 (2) There is a written agreement between the county welfare
39 department and the parent or guardian specifying the terms of the
40 voluntary placement. The State Department of Social Services

1 shall develop a form for voluntary placement agreements which
2 shall be used by all counties. The form shall indicate that foster
3 care under the Aid to Families with Dependent Children program
4 is available to those children.

5 (3) In the case of an Indian child, in accordance with Section
6 1913 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et
7 seq.), the following criteria are met:

8 (A) The parent or Indian custodian's consent to the voluntary
9 out-of-home placement is executed in writing at least 10 days after
10 the child's birth and recorded before a judge.

11 (B) The judge certifies that the terms and consequences of the
12 consent were fully explained in detail in English and were fully
13 understood by the parent or that they were interpreted into a
14 language that the parent understood.

15 (C) A parent of an Indian child may withdraw his or her consent
16 for any reason at any time and the child shall be returned to the
17 parent.

18 (c) In the case of a voluntary placement pending relinquishment,
19 a county welfare department shall have the option of delegating
20 to a licensed private adoption agency the responsibility for
21 placement by the county welfare department. If such a delegation
22 occurs, the voluntary placement agreement shall be signed by the
23 county welfare department, the child's parent or guardian, and the
24 licensed private adoption agency.

25 (d) The State Department of Social Services shall amend its
26 plan pursuant to Part E (commencing with Section 670) of
27 Subchapter IV of Chapter 7 of Title 42 of the United States Code
28 in order to conform to mandates of Public Law 96-272 and Public
29 Law 110-351 for federal financial participation in voluntary
30 placements.

31 SEC. 67. Section 16507.6 of the Welfare and Institutions Code
32 is amended to read:

33 16507.6. If a minor has been voluntarily placed with the county
34 welfare department subsequent to January 1, 1982, for out-of-home
35 placement by his or her parents or guardians pursuant to this
36 chapter and the minor has remained out of their physical custody
37 for a consecutive period not to exceed 180 days, the department
38 shall do one of the following:

39 (a) Return the minor to the physical custody of his or her parents
40 or guardians.

1 (b) Refer the minor to a licensed adoption agency for
2 consideration of adoptive planning and receipt of a permanent
3 relinquishment of care and custody rights from the parents pursuant
4 to Section 8700 of the Family Code.

5 (c) Apply for a petition pursuant to Section 332 and file the
6 petition with the juvenile court to have the minor declared a
7 dependent child of the court under Section 300, in that return to
8 the parental home would be contrary to the best interests of the
9 child.

10 (d) On and after the date that the director executes a declaration
11 pursuant to Section 11217, apply for a petition pursuant to Section
12 332 and file a petition with the juvenile court under subdivision
13 (k) of Section 300 to have a guardianship with an approved relative
14 ordered pursuant to Section 360 if the child otherwise meets the
15 conditions for federally funded Kin-GAP as provided for in Article
16 4.7 (commencing with Section 11385) of Chapter 2, and
17 out-of-home placement is in the best interest of the child.

18 (e) Refer the minor placed pursuant to paragraph (2) of
19 subdivision (a) of Section 16507.3 to an interagency administrative
20 review board as may be required in federal regulations. One
21 member of the board shall be a licensed mental health practitioner.
22 The review board shall review the appropriateness and continued
23 necessity of six additional months of voluntary placement, the
24 extent of the compliance with the voluntary placement plan, and
25 the adequacy of services to the family and child. If the minor
26 cannot be returned home by the 12th month of voluntary placement
27 services, the department shall proceed pursuant to subdivisions
28 (b), (c), or (d).

29 (f) Refer the minor placed pursuant to paragraph (1) of
30 subdivision (a) of Section 16507.3 to an administrative review
31 board as may be required in federal regulations and as described
32 in subdivision (b) of Section 16503. If the minor cannot be returned
33 home by the 12th month of voluntary placement services, the
34 department shall proceed as described in paragraph subdivisions
35 (b), (c), or (d).

36 SEC. 68. Section 16508 of the Welfare and Institutions Code,
37 as amended by Section 21 of Chapter 287 of the Statutes of 2009,
38 is amended to read:

39 16508. Permanent placement services shall be provided or
40 arranged for by county welfare department staff for children who

1 cannot safely live with their parents and are not likely to return to
2 their own homes. Permanent placement services shall be available
3 without regard to income to the following children:

4 (a) Children judged dependent under Section 300 where a review
5 has determined that reunification, adoption, tribal customary
6 adoption, or guardianship is inappropriate.

7 (b) Recipients of public assistance under the nonfederally funded
8 Aid to Families with Dependent Children Foster Care program
9 who are wards of a legal guardian pursuant to Section 11405, where
10 a review has determined that reunification or adoption is
11 inappropriate.

12 (c) On and after January 1, 2012, nonminor dependents, as
13 defined in subdivision (v) of Section 11400, who are receiving
14 AFDC-FC pursuant to Section 11403.

15 (d) This section shall remain in effect only until January 1, 2014,
16 and as of that date is repealed, unless a later enacted statute, that
17 is enacted before January 1, 2014, deletes or extends that date.

18 SEC. 69. Section 16508 of the Welfare and Institutions Code,
19 as added by Section 22 of Chapter 287 of the Statutes of 2009, is
20 amended to read:

21 16508. Permanent placement services shall be provided or
22 arranged for by county welfare department staff for children who
23 cannot safely live with their parents and are not likely to return to
24 their own homes. Permanent placement services shall be available
25 without regard to income to the following children:

26 (a) Children judged dependent under Section 300 where a review
27 has determined that reunification, adoption, or guardianship is
28 inappropriate.

29 (b) Recipients of public assistance under the nonfederally funded
30 Aid to Families with Dependent Children Foster Care program
31 who are wards of a legal guardian pursuant to Section 11405, where
32 a review has determined that reunification or adoption is
33 inappropriate.

34 (c) On and after January 1, 2012, nonminor dependents, as
35 defined in subdivision (v) of Section 11400, who are receiving
36 AFDC-FC pursuant to Section 11403.

37 (d) This section shall become operative on January 1, 2014.

38 SEC. 70. No appropriation pursuant to Section 15200 of the
39 Welfare and Institutions Code shall be made for the purpose of
40 implementing this act.

1 SEC. 71. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution for certain
3 costs that may be incurred by a local agency or school district
4 because, in that regard, this act creates a new crime or infraction,
5 eliminates a crime or infraction, or changes the penalty for a crime
6 or infraction, within the meaning of Section 17556 of the
7 Government Code, or changes the definition of a crime within the
8 meaning of Section 6 of Article XIII B of the California
9 Constitution.

10 However, if the Commission on State Mandates determines that
11 this act contains other costs mandated by the state, reimbursement
12 to local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.